

Digitized by the Internet Archive in 2022 with funding from University of Toronto





-B56

4TH SESSION, 28TH LEGISLATURE, ONTARIO 20 ELIZABETH II, 1971



An Act to amend The Business Corporations Act, 1970

THE HON. ARTHUR A. WISHART
Minister of Financial and Commercial Affairs



EXPLANATORY NOTES

Section 1. The amendment amplifies the definition of offering securities to the public.

Section 2. The amendment permits the shareholder of a one-man corporation to dispense with the formalities of a meeting where he puts the action to be taken thereat in writing and signs it.

BILL 52

An Act to amend The Business Corporations Act, 1970

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. Subsection 9 of section 1 of *The Business Corporations* 1970, c. 25, s. 1, subs. 9, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (9) A body corporate is offering its securities to the offering public only where,
 - (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid circular has been filed under *The Securities Act, 1966*, or any pre-1966, c. 142 decessor thereof or in respect of which a prospectus has been filed under *The Corpora*-B.S.O. 1960, tions Information Act, or any predecessor thereof, so long as any of such securities are outstanding; or

1971

(b) any of its shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

except that where, upon the application of a body corporate that has fewer than fifteen shareholders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public.

- 2. Subsection 4 of section 23 of *The Business Corporations* 1970, c. 25, s. 23, subs. 4, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (4) Any by-law, resolution or other action of a corporation Idem that has only one shareholder consented to at any

time during a corporation's existence by the signature of such shareholder is as valid and effective as if passed at a meeting of shareholders duly called, constituted and held for that purpose.

Evidentiary value of signatures (5) Where a by-law, resolution or other action purports to have been consented to or confirmed under this section by the signatures of all the directors or shareholders, as the case may be, of the corporation, the signatures to the by-law, resolution or other action are admissible in evidence as *prima facie* proof of the signatures of the directors or shareholders, as the case may be, that they purport to represent and are admissible in evidence as *prima facie* proof that the signatories to the by-law, resolution or other action were all the directors or all the shareholders entitled to vote at meetings of shareholders, as the case may be, at the date that the by-law, resolution or other action purports so to have been consented to or confirmed.

1970, c. 25, s. 25, amended 3. Section 25 of *The Business Corporations Act, 1970* is amended by adding thereto the following subsection:

Effective date of an amendment (3) Upon the date set forth in the certificate of filing, the resolution becomes effective and constitutes an amendment to the articles.

1970, c. 25, s. 27, subs. 1, cl. *g*, re-enacted

- **4.** Clause g of subsection 1 of section 27 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (g) the purchase for cancellation by the corporation of all or part of the shares of that class by agreement with the holders thereof.

1970, c. 25, s. 34, subs. 1, re-enacted 5. Subsection 1 of section 34 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Redemption of special shares

- (1) Where the shares of a class of special shares are made redeemable by the articles and part only of the special shares are to be redeemed, the shares to be redeemed shall be selected,
 - (a) by lot in such manner as the board of directors determines;
 - (b) as nearly as may be in proportion to the number of special shares of the class registered in the name of each shareholder; or

Section 3. This subsection establishes the effective date of an amendment to the articles of the corporation.

Section 4. The words deleted from this clause are provided for in section 35 of the Act. (See section 6 of this Bill).

Section 5. The amendment widens the choice of methods of selecting special shares to be redeemed.

Section 6. The amendment is for clarification.

 $S_{\rm ECTION}$ 7. The amendment makes clear the power of mutual fund corporations to issue fractional shares.

(c) in such other manner as the board of directors determines with the consent of the holders of special shares of the class obtained in the manner set out in subsection 2,

but the articles may confine the manner of selection to one or more of those methods set out in clauses a, b and c.

- **6.** Subsection 1 of section 35 of *The Business Corporations* 1970, c. 25, s. 35, subs. 1, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) Where the shares of a class of special shares are made purchase of special purchasable for cancellation by the articles, then, shares for cancellation
 - (a) the shares shall be purchased at the lowest price at which, in the opinion of the directors, the shares are obtainable, but not exceeding an amount stated in or determined by the articles; and
 - (b) the shares shall be purchased either,
 - (i) on the open market,
 - (ii) with the consent of all the holders of the shares of the class, or
 - (iii) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders,

but the articles may confine the manner of purchase to one or more of those set out in sub-clauses i, ii and iii.

- 7. Subsection 1 of section 37 of *The Business Corporations* ¹⁹⁷⁰, c. 25, s. 37, subs. 1, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) Where the only undertaking of a corporation is the Surrender business of investing the funds of the corporation, its fund shares articles may provide for the issuing of one or more classes of mutual fund shares and fractions or parts thereof that have attached thereto conditions requiring the corporation to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof.

1970, c. 25, s. 39, subs. 5, re-enacted **8.** Subsection 5 of section 39 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Method

- (5) Where a corporation purchases its common shares under subsection 1, the purchase shall be made at the lowest price at which, in the opinion of the directors, such shares are obtainable, and,
 - (a) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders; or
 - (b) from bona fide full-time employees and former employees of the corporation; or
 - (c) where the corporation is offering its shares to the public, by purchase on the open market.

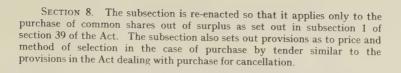
1970, c. 25, s. 44, subs. 5, re-enacted **9.** Subsection 5 of section 44 of *The Business Corporations* Act, 1970 is repealed and the following substituted therefor:

Idem

(5) For the purposes of subsection 4 and paragraph 21 of subsection 2 of section 15, a document evidencing indebtedness of the allottee does not constitute property and services shall be past services actually performed for the corporation, and the value of property or services shall be the value the directors determine by express resolution to be in all the circumstances of the transaction the fair equivalent of the cash value.

1970, c. 25, s. 45, subs. 1, re-enacted 10. Subsection 1 of section 45 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Commission on sale of shares (1) A corporation may provide by special by-law for the payment of commissions or allowing discounts to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the corporation, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, but, except in the case of a corporation that carries on as its principal business the business of exploring for minerals, gas or oil or of operating a producing mining, gas or oil property owned and controlled by it or a corporation at least 75 per cent of whose assets are



Section 9. The section as amended ensures that the capacity of a corporation to issue shares as consideration for the cancelling of its own debt obligations is not interfered with.

Section 10. The amendment is to make clear the intention that the subsection shall apply to mining, gas or oil exploration corporations as well as to producers.

Section 11. The word corporation has been changed to body corporate which is the appropriate term to include corporations incorporated outside Ontario.

Section 12. The section is re-enacted to amplify what should appear on a share certificate where the corporation has restrictions on the right to transfer shares.

of a wasting character, no such commission or discount shall exceed 25 per cent of the amount of the subscription price.

- **11.** Section 48 of *The Business Corporations Act*, 1970 is 1970, c. 25, repealed and the following substituted therefor:
 - 48.—(1) Except in the cases mentioned in this section, Subsidiaries a corporation shall not be a shareholder of a body shares of corporate that is its holding body corporate, and any bodies allotment or transfer of shares of a corporation to corporate its subsidiary is void.
 - (2) This section does not apply to a subsidiary holding Application shares as personal representative unless the holding body corporate or a subsidiary thereof is beneficially interested under a trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money.
 - (3) This section does not prevent a subsidiary that on the Exception 30th day of April, 1954, held shares of its holding body corporate from continuing to hold such shares, but, subject to subsection 2, the subsidiary has no right to vote at meetings of shareholders of the holding body corporate or at meetings of any class of shareholders thereof.
 - (4) Subject to subsection 2, subsections 1 and 3 apply in Nominees relation to a nominee for a corporation that is a subsidiary as if the references in subsections 1 and 3 to such a corporation included references to a nominee for it.
- 12. Subsection 5 of section 51 of *The Business Corporations* 1970, c. 25, s. 51, subs. 5, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (5) A share certificate issued for one or more shares the Transfer transfer of which is restricted in accordance with the articles shall,
 - (a) legibly state on the certificate or have attached thereto a legible statement of the restrictions on the right to transfer the shares; or
 - (b) legibly state on the certificate that there are restrictions on the right to transfer the shares and that a copy of the full text thereof is obtainable on demand and without fee from the corporation.

Idem

(6) Where a share certificate contains a statement as provided in clause b of subsection 5, the corporation shall furnish to the shareholder on demand without fee a copy of the full text of the restrictions on the right to transfer the shares.

1970, c. 25, s. 56, subs. 3, re-enacted 13. Subsection 3 of section 56 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:

Exception

(3) Subsection 1 does not apply to an instrument filed or registered under any other Act.

1970, c. 25, s. 57, subs. 3, re-enacted **14.** Subsection 3 of section 57 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Resident

(3) Every body corporate whose debt obligations are offered to the public in Ontario under a trust indenture and every body corporate whose debt obligations are issued in Ontario under a trust indenture shall have a trustee resident or authorized to do business in Ontario.

1970, c. 25, s. 63, subs. 1, amended **15.** Subsection 1 of section 63 of *The Business Corporations Act, 1970* is amended by adding thereto the following clauses:

- (fa) "genuine" means free from forgery or counterfeiting;
- (fb) "noted conspicuously" and "appearing conspicuously" mean written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them;
- (j) "unauthorized", when used with reference to a signature or endorsement, means one made without actual, implied or apparent authority and includes a forgery.

1970, c. 25, s. 76, subs. 1, re-enacted **16.** Subsection 1 of section 76 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:

Warranties on issue

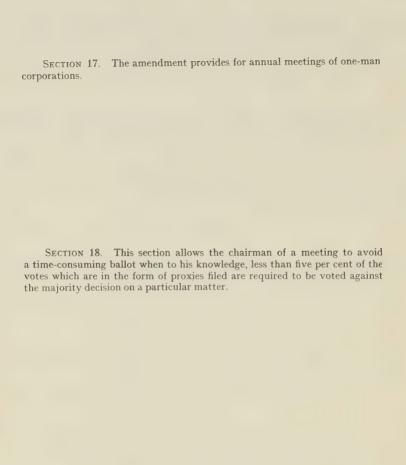
- (1) A person placing his signature upon a security as authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that,
 - (a) the security is genuine and in proper form;

Section 13. The subsection is re-enacted so as to make it clear that a land charge or mortgage need not be registered under section 56 of the Act.

Section 14. The subsection is re-enacted so as to make it clear that the intention that the requirement of a trustee extends only to debt obligations issued under a trust indenture.

Section 15. The amendment adds certain definitions taken from the American Bar Association's Uniform Commercial Code.

Section 16. The amendment provides for an authenticating trustee, registrar or transfer agent who is an individual as well as a corporation.



Section 19. The amendment clarifies that the directors' judgment or the best interests of the corporation is taken at the time the action is taken for the purposes of determining directors' liability.

- (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
- (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue
- **17.** Section 107 of *The Business Corporations Act*, 1970 is \$1970, c. 25, amended by adding thereto the following subsection:
 - (2) Where a corporation has only one shareholder and, Idem on or before the date the annual meeting is required to be held, the action required to be taken at the annual meeting is completed in accordance with subsection 4 of section 23, the action so completed shall be deemed to have been taken at an annual meeting of the corporation and such annual meeting shall be deemed to have been held on the date of the completion.
- **18.** Section 121 of *The Business Corporations Act, 1970* is $\frac{1970, \text{ c. 25}}{\text{s. 121, re-enacted}}$ repealed and the following substituted therefor:
 - 121. The chairman at a meeting has the right not to Where vote conduct a vote by way of ballot on any matter or group not required of matters in connection with which the form of proxy has provided a means whereby the person whose proxy is solicited may specify how such person wishes the shares registered in his name to be voted unless,
 - (a) a poll is demanded by any shareholder present at the meeting in person or represented thereat by proxy; or
 - (b) proxies requiring that the shares represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attaching to all the shares entitled to be voted and be represented at the meeting.
- 19. Subsection 4 of section 134 of *The Business Corporations* ^{1970, c. 25,} s. 134, subs. 4, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (4) If a director has made a declaration and disclosure Effect of of his interest in a contract or transaction in

compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the corporation or to its shareholders for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

1970, c. 25, s. 137, subs. 1, cl. c, re-enacted

- **20.**—(1) Clause c of subsection 1 of section 137 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (c) a loan mentioned in section 146 is authorized,

1970, c. 25, s. 137, subs. 3, cl. c, re-enacted

- (2) Clause c of subsection 3 of the said section 137 is repealed and the following substituted therefor:
 - (c) a loan mentioned in section 146 is authorized,

1970, c. 25, s. 143, re-enacted **21.** Section 143 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Qualifications of chairman and president 143. Unless the articles or by-laws otherwise provide, no person shall be the president of a corporation unless he is a director of the corporation, but no other officer except the chairman of the board need be a director

1970, c. 25, s. 167, subs. 1, re-enacted **22.** Subsection 1 of section 167 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

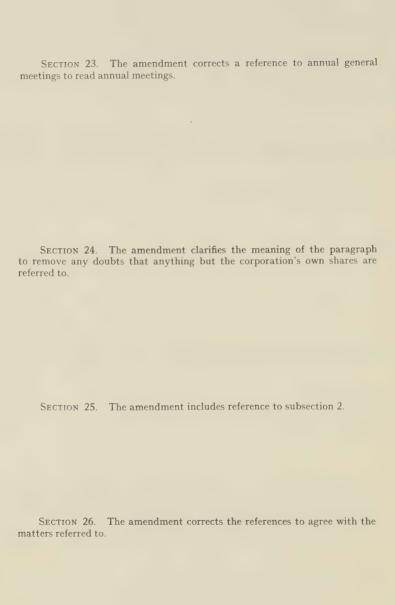
Exemption from audit provisions

- (1) Subject to subsection 2, where in a financial year all the shareholders of a corporation that,
 - (a) is not offering its securities to the public;
 - (b) has five or fewer shareholders; and
 - (c) has assets not exceeding \$500,000 and sales or gross operating revenues not exceeding

Section 20. The references to guarantees are deleted as section 146 of the Act does not authorize a guarantee.

Section 21. The section is amended to make it clear that the chairman of the board must be a director.

Section 22. Clause c of subsection 1 is amended to permit shareholders to consent to an exemption from certain audit requirements where neither sales nor gross operating revenues exceed \$1,000,000; and to include in the exemptions the report of the auditor to the shareholders.



\$1,000,000, as shown on the financial statement of the corporation for the preceding year,

consent in writing, the corporation is exempt from sections 168 and 169, subsections 1 to 4 of section 170, section 171 and clause c of subsection 1 and subsection 3 of section 172 in respect of the year in which the consent is given.

- 23. Subsection 4 of section 171 of *The Business Corporations* 1970, c. 25, s. 171, subs. 4, 1970 is repealed and the following substituted therefor: re-enacted
 - (4) Where facts come to the attention of the officers or Facts discovered directors which, if known prior to the date of the last after annual meeting of shareholders, would have required a material adjustment to the financial statement presented to such meeting, the officers or directors shall communicate such facts to the auditor who reported to the shareholders under this section and the directors shall forthwith amend the financial statement and send it to the auditor.
- **24.** Paragraph 27 of subsection 1 of section 177 of *The* ^{1970, c. 25, s. 177, subs. 1, substituted therefor:}
 - 27. The number of common shares of the corporation purchased and the number of the common shares of the corporation resold since the date of the last preceding balance sheet, giving the date of each such purchase and resale and the price at which each such purchase or resale was made.
- 25. Subsection 3 of section 184 of *The Business Corporations* 1970, c. 25, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (3) A shareholder of a corporation that is not offering Financial its securities to the public is entitled to be furnished on demand by the corporation on demand with a copy of the documents mentioned in subsections 1 and 2.
- **26.** Subsection 6 of section 186 of *The Business Corporations* 1970, c. 25, 8. 186, subs. 6, re-enacted re-enacted
 - (6) Every director, officer, agent, employee, banker or offences auditor who refuses to produce any account or record referred to in subsection 3 and every person examined under subsection 4 or subsection 5 who refuses to answer any question related to the affairs and management of the corporation or any affiliate is guilty of an

offence under section 259, in addition to any other liability to which he is subject.

1970, c. 25, s, 189, amended 27. Section 189 of *The Business Corporations Act, 1970* is amended by adding thereto the following subsection:

Idem

(3a) Notwithstanding subsection 3, if an amendment under clause m of subsection 1 is to provide for the restrictions permitted by subsection 2 of section 47, such amendment shall be authorized by a special resolution.

1970, c. 25, s. 195, subs. 3, re-enacted **28.** Subsection 3 of section 195 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Effect of certificate

(3) Upon the date set forth in the certificate of filing, the scheme becomes effective and constitutes an amendment to the articles.

1970, c. 25, s. 196, subs. 2, cl. b, re-enacted

- **29.** Clause b of subsection 2 of section 196 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:
 - (b) the objects of the amalgamated corporation.

1970, c. 25, s. 197, subs. 4, cl. *d*, re-enacted

- **30.** Clause *d* of subsection 4 of section 197 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (d) the articles of incorporation of each of the amalgamating corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement.

1970, c. 25, s. 198, re-enacted **31.** Section 198 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Certificate of

198.—(1) A body corporate incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Minister to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Minister for a certificate continuing it as if it had been incorporated under this Act, and the Minister may issue the certificate of continuation on application supported by such material as appears satisfactory, and the certificate may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Minister to be fit and proper.

Section 27. An amendment to the articles imposing restrictions on the transfer of shares is required to be authorized by a resolution approved by virtually all the shareholders. The amendment excepts restrictions having to do with retaining status as a Canadian corporation, and in that case requires only a two-thirds majority.

Section 28. The commencement date for an amendment to the articles is fixed in the same way as for the issuing of articles.

Section 29. The clause deleted refers to amalgamated corporations of limited duration. No provision is made elsewhere in the Act on incorporation for limited duration. The clause substituted provides for the amalgamation agreement to set out objects of the amalgamated corporation.

 $Section. \ \, 30. \quad The amendment corrects the reference to the amalgamated corporations to read amalgamating corporations.$

Sections 31 and 32. The sections are amended to change the reference to read body corporate when it refers to corporations incorporated outside Ontario and corporation when incorporated in Ontario.

Section 33. Subsection 1. The shareholders now may authorize dissolution by a majority vote but the articles may provide a different percentage. The amendment ensures that the new percentage fixed by the articles will not be less than 50 per cent.

Subsection 2. The reference to the effective date of incorporation is

changed to agree with the fixing of the effective date by setting it forth

Section 34. The commencement date for articles of dissolution is

in the certificate.

fixed in the same way as for other articles.

- (2) Upon the date set forth in a certificate of con-Effect of tinuation issued under subsection 1, this Act applies continuation to the body corporate to the same extent as if it had been incorporated under this Act.
- **32.** Section 199 of *The Business Corporations Act, 1970* is \$\frac{1970}{\text{s. 199}}\$, c. 25. repealed and the following substituted therefor: re-enacted
 - 199.—(1) A corporation may, if authorized by a special Transfer of resolution, by the Minister and by the laws of any corporations other jurisdiction, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction.
 - (2) The corporation shall file with the Minister a notice Notice of the issue of the instrument of continuation, and on and after the date of the filing of the notice this Act ceases to apply to that corporation.
 - (3) This section applies only in respect of a jurisdiction Application that has legislation in force that permits bodies corporate incorporated under its laws to apply for an instrument of continuation under the laws of Ontario.
- **33.**—(1) Clause a of section 247 of *The Business Corporations* 1970. c. 25. Act, 1970 is repealed and the following substituted therefor: seenacted
 - (a) a majority of the votes cast at a general meeting of the shareholders of the corporation duly called for the purpose or by such other proportion of the votes cast as the articles provide; but such other proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting.
- (2) Clause c of the said section 247 is repealed and the following substituted therefor:
 - (c) all its incorporators or their personal representatives at any time within two years after the date set forth in its certificate of incorporation where the corporation has not commenced business and has not issued any shares.
- **34.** Clause b of subsection 2 of section 248 of $The_{\text{s.248, subs. 2.}}^{1970, \text{ c. 25.}}$ Business Corporations Act, 1970 is repealed and the following cl. b. substituted therefor:
 - (b) the date set forth in its certificate of incorporation.

1970, c. 25, s. 251, subs. 4, re-enacted **35.** Subsection 4 of section 251 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Revival

R.S.O. 1960,

(4) Where a corporation is dissolved under subsection 3, or was dissolved in 1970 under subsection 2 of section 326 of The Corporations Act, the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

1970, c. 25, s. 252, subs. 1, re-enacted **36.** Subsection 1 of section 252 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

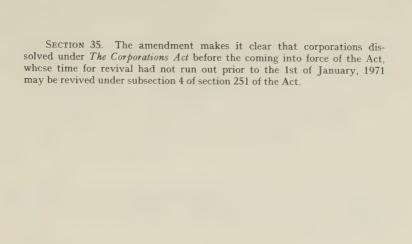
Suits after dissolution

- (1) Notwithstanding the dissolution of a corporation under section 249, 250 or 251,
 - (a) any action, suit or other proceeding commenced by or against the corporation before its dissolution may be proceeded with as if the corporation had not been dissolved;
 - (b) any action, suit or other proceeding may be brought against the corporation within two years after its dissolution as if the corporation had not been dissolved; and
 - (c) any property that would have been available to satisfy any judgment, order or other decision if the corporation had not been dissolved remains available for such purpose.

1970, c. 25, s. 255, subs. 3, re-enacted

37. Subsection 3 of section 255 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Waiver of notice and abridgement of times (3) Where a notice is required by this Act to be given to any person, the giving of the notice may be waived or the time for the notice may be waived or abridged with the consent in writing of such person, whether before or after the time prescribed.



Section 36. The amendment deletes reference to incorporation for limited duration.

Section 37. The amendment is for clarification.

Section 38. The amendment permits evidence of when facts upon which a prosecution is based first came to the knowledge of the Commission to be proved by certificate of the Commission.

Section 39. The amendment deletes a requirement that the Minister publish in *The Ontario Gazette* notice of filing a resolution requiring voluntary winding up. This requirement is already provided for in section 203(4).

Section 40. The amendment adds special resolutions to the instruments made before the new Act and continued unaffected. Further amendment ensures part of a by-law may be made invalid without affecting the remainder.

- **38.** Subsection 2 of section 260 of *The Business Corporations* 1970, c. 25, s. 260, subs. 2. Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (2) No proceedings under section 259 for a contra-Idem vention of section 148 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission as certified by the Commission or a member thereof.
- **39.** Clause d of section 264 of *The Business Corporations Act*, $\frac{1970}{\text{s. 264}}$, c. 25, $\frac{1970}{\text{s. 264}}$, cl. d, re-enacted
 - (d) of the filing of a notice by a liquidator under subsection 2 of section 215.
- **40.** Subsection 1 of section 272 of *The Business Corporations* 1970, c. 25, s. 272, subs. 1, *Act, 1970* is repealed and the following substituted therefor: re-enacted re-enacted.
 - (1) Any provision in the letters patent, supplementary Continulated letters patent or by-laws and any special resolution letters of a corporation that was valid immediately before this Act comes into force, except a provision that contravenes section 147, continues to be valid and in effect, but any additions or amendments to or deletions from any provision in the letters patent, supplementary letters patent or by-laws of a corporation shall be made in accordance with this Act.
- **41.**—(1) This Act, except sections 1, 2, 3, 5, 7, 9 to 11, 13, 14, Commence 17, 20 to 24, 28 to 37, 39 and 40, comes into force on the day it receives Royal Assent.
- (2) Sections 1, 2, 3, 5, 7, 9 to 11, 13, 14, 17, 20 to 24, 28 to 37, Idem 39 and 40 shall be deemed to have come into force on the 1st day of January, 1971.
- **42.** This Act may be cited as The Business Corporations Short title Amendment Act, 1971.

Ist Reading
June 1st, 1971
2nd Reading

3rd Reading

The Hon. Arthur A. Wishart
Minister of Financial and
Commercial Affairs

(Government Bill)

-B 56

4TH SESSION, 28TH LEGISLATURE, ONTARIO 20 ELIZABETH II, 1971

An Act to amend The Business Corporations Act, 1970



THE HON. ARTHUR A. WISHARM Minister of Financial and Commercial Affairs

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

Section 2 . The amendment amplifies the definition of offering securities to the public.

BILL 52 1971

An Act to amend The Business Corporations Act, 1970

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. Subsection 1 of section 1 of *The Business Corporations* ¹⁹⁷⁰, c. 25, Act, 1970 is amended by adding thereto the following amended, paragraphs:
 - 4a. "basic earnings per share" means the amount of income attributable to each outstanding share that carries as an incident of ownership the right to participate in earnings to an unlimited degree, calculated in the manner prescribed by the regulations;
 - 14a. "fully diluted earnings per share" means the amount of income attributable to each share that would, if all potential conversions, exercises and contingent issuances had occurred during the period, be outstanding and have as an incident of ownership the right to participate in earnings to an unlimited degree, calculated in the manner prescribed by the regulations.
- 2. Subsection 9 of section 1 of *The Business Corporations* 1970, c. 25, s. 1, subs. 9, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (9) A body corporate is offering its securities to the offering public only where,
 - (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid circular has been filed under *The Securities Act, 1966*, or any pre-1966, c. 142, decessor thereof or in respect of which a prospectus has been filed under *The Corpora*-c. 72

tions Information Act, or any predecessor thereof, so long as any of such securities are outstanding; or

(b) any of its shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

except that where, upon the application of a body corporate that has fewer than fifteen shareholders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public.

1970, c. 25, s. 23, subs. 4, re-enacted

3. Subsection 4 of section 23 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Idem

(4) Any by-law, resolution or other action of a corporation that has only one shareholder consented to at any time during a corporation's existence by the signature of such shareholder is as valid and effective as if passed at a meeting of shareholders duly called, constituted and held for that purpose.

Evidentiary value of signatures

(5) Where a by-law, resolution or other action purports to have been consented to or confirmed under this section by the signatures of all the directors or shareholders, as the case may be, of the corporation, the signatures to the by-law, resolution or other action are admissible in evidence as *prima facie* proof of the signatures of the directors or shareholders, as the case may be, that they purport to represent and are admissible in evidence as *prima facie* proof that the signatories to the by-law, resolution or other action were all the directors or all the shareholders entitled to vote at meetings of shareholders, as the case may be, at the date that the by-law, resolution or other action purports so to have been consented to or confirmed.

1970, c. 25, s. 25, amended **4.** Section 25 of *The Business Corporations Act, 1970* is amended by adding thereto the following subsection:

Effective date of an amendment (3) Upon the date set forth in the certificate of filing, the resolution becomes effective and constitutes an amendment to the articles.

Section 3. The amendment permits the shareholder of a one-man corporation to dispense with the formalities of a meeting where he puts the action to be taken thereat in writing and signs it.

Section 4. This subsection establishes the effective date of an amendment to the articles of the corporation.

Section 5. The words deleted from this clause are provided for in section 35 of the Act. (See section 7 of this Bill).

Section 6. The amendment widens the choice of methods of selecting special shares to be redeemed.

Section 7. The amendment is for clarification.

- **5.** Clause g of subsection 1 of section 27 of *The Business* 1970, c. 25, s. 27, subs. 1, *Corporations Act*, 1970 is repealed and the following sub-cl. g, stituted therefor:
 - (g) the purchase for cancellation by the corporation of all or part of the shares of that class by agreement with the holders thereof.
- 6. Subsection 1 of section 34 of *The Business Corporations* ¹⁹⁷⁰, c. 25, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) Where the shares of a class of special shares are Redemption made redeemable by the articles and part only of shares the special shares are to be redeemed, the shares to be redeemed shall be selected,
 - (a) by lot in such manner as the board of directors determines;
 - (b) as nearly as may be in proportion to the number of special shares of the class registered in the name of each shareholder; or
 - (c) in such other manner as the board of directors determines with the consent of the holders of special shares of the class obtained in the manner set out in subsection 2,

but the articles may confine the manner of selection to one or more of those methods set out in clauses a, b and c.

- 7. Subsection 1 of section 35 of *The Business Corporations* 1970, c. 25, 8. 35, subs. 1, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) Where the shares of a class of special shares are made purchasable for cancellation by the articles, then, purchase of special shares for cancellation by the articles, then, cancellation
 - (a) the shares shall be purchased at the lowest price at which, in the opinion of the directors, the shares are obtainable, but not exceeding an amount stated in or determined by the articles; and
 - (b) the shares shall be purchased either,
 - (i) on the open market,
 - (ii) with the consent of all the holders of the shares of the class, or

(iii) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders,

but the articles may confine the manner of purchase to one or more of those set out in sub-clauses i, ii and iii.

1970, c. 25, s. 37, subs. 1, re-enacted 8. Subsection 1 of section 37 of *The Business Corporations* Act, 1970 is repealed and the following substituted therefor:

Surrender of mutual fund shares (1) Where the only undertaking of a corporation is the business of investing the funds of the corporation, its articles may provide for the issuing of one or more classes of mutual fund shares and fractions or parts thereof that have attached thereto conditions requiring the corporation to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof.

1970, c. 25, s. 39, subs. 5, re-enacted **9.** Subsection 5 of section 39 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:

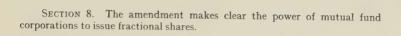
Method

- (5) Where a corporation purchases its common shares under subsection 1, the purchase shall be made at the lowest price at which, in the opinion of the directors, such shares are obtainable, and,
 - (a) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders; or
 - (b) from bona fide full-time employees and former employees of the corporation; or
 - (c) where the corporation is offering its shares to the public, by purchase on the open market.

1970, c. 25, s. 44, subs. 5, re-enacted 10. Subsection 5 of section 44 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Idem

(5) For the purposes of subsection 4 and paragraph 21 of subsection 2 of section 15, a document evidencing indebtedness of the allottee does not constitute property and services shall be past services actually



Section 9. The subsection is re-enacted so that it applies only to the purchase of common shares out of surplus as set out in subsection 1 of section 39 of the Act. The subsection also sets out provisions as to price and method of selection in the case of purchase by tender similar to the provisions in the Act dealing with purchase for cancellation.

Section 10. The section as amended ensures that the capacity of a corporation to issue shares as consideration for the cancelling of its own debt obligations is not interfered with.

Section 11. The amendment is to make clear the intention that the subsection shall apply to mining, gas or oil exploration corporations as well as to producers.

Section 12. The word corporation has been changed to body corporate which is the appropriate term to include corporations incorporated outside Ontario.

performed for the corporation, and the value of property or services shall be the value the directors determine by express resolution to be in all the circumstances of the transaction the fair equivalent of the cash value.

- 11. Subsection 1 of section 45 of The Business Corporations 1970, c. 25, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) A corporation may provide by special by-law Commission on sale for the payment of commissions or allowing dis-of shares counts to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the corporation, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, but, except in the case of a corporation that carries on as its principal business the business of exploring for minerals, gas or oil or of operating a producing mining, gas or oil property owned and controlled by it or a corporation at least 75 per cent of whose assets are of a wasting character, no such commission or discount shall exceed 25 per cent of the amount of the subscription price.

- **12.** Section 48 of The Business Corporations Act, 1970 is $^{1970}_{8,48}$, $^{0.25}_{48}$, repealed and the following substituted therefor:
 - 48.—(1) Except in the cases mentioned in this section, Subsidiaries a corporation shall not be a shareholder of a body shares of corporate that is its holding body corporate, and any bodies allotment or transfer of shares of a corporation to corporate its subsidiary is void
 - (2) This section does not apply to a subsidiary holding Application shares as personal representative unless the holding body corporate or a subsidiary thereof is beneficially interested under a trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money.
 - (3) This section does not prevent a subsidiary that on the Exception 30th day of April, 1954, held shares of its holding body corporate from continuing to hold such shares, but, subject to subsection 2, the subsidiary has no right to vote at meetings of shareholders of the holding body corporate or at meetings of any class of shareholders thereof.

Nominees

(4) Subject to subsection 2, subsections 1 and 3 apply in relation to a nominee for a corporation that is a subsidiary as if the references in subsections 1 and 3 to such a corporation included references to a nominee for it.

1970, c. 25, s. 51, subs. 5, re-enacted 13. Subsection 5 of section 51 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Transfer restricted

- (5) A share certificate issued for one or more shares the transfer of which is restricted in accordance with the articles shall,
 - (a) legibly state on the certificate or have attached thereto a legible statement of the restrictions on the right to transfer the shares; or
 - (b) legibly state on the certificate that there are restrictions on the right to transfer the shares and that a copy of the full text thereof is obtainable on demand and without fee from the corporation.

Idem

(6) Where a share certificate contains a statement as provided in clause b of subsection 5, the corporation shall furnish to the shareholder on demand without fee a copy of the full text of the restrictions on the right to transfer the shares.

1970, c. 25, s. 56, subs. 3, re-enacted **14.** Subsection 3 of section 56 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Exception

(3) Subsection 1 does not apply to an instrument filed or registered under any other Act.

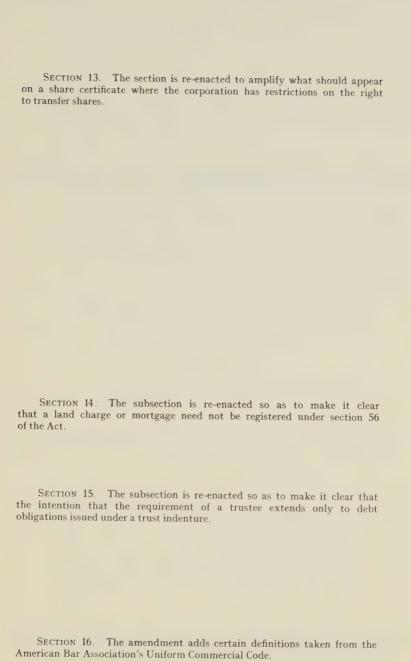
1970, c. 25, s. 57, subs. 3 re-enacted **15.** Subsection 3 of section 57 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Resident trustee

(3) Every body corporate whose debt obligations are offered to the public in Ontario under a trust indenture and every body corporate whose debt obligations are issued in Ontario under a trust indenture shall have a trustee resident or authorized to do business in Ontario.

1970, c. 25, s. 63, subs. 1, amended

- **16.** Subsection 1 of section 63 of *The Business Corporations Act, 1970* is amended by adding thereto the following clauses:
 - (fa) "genuine" means free from forgery or counterfeiting;





- (fb) "noted conspicuously" and "appearing conspicuously" mean written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them;
- (j) "unauthorized", when used with reference to a signature or endorsement, means one made without actual, implied or apparent authority and includes a forgery.
- 17. Subsection 1 of section 76 of *The Business Corporations* ¹⁹⁷⁰, c. 25, s. 76, subs. 1, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) A person placing his signature upon a security as Warranties authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that,
 - (a) the security is genuine and in proper form;
 - (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
 - (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.
- 18. Section 107 of *The Business Corporations Act*, 1970 is 1970, c. 25, amended by adding thereto the following subsection:
 - (2) Where a corporation has only one shareholder and, Idem on or before the date the annual meeting is required to be held, the action required to be taken at the annual meeting is completed in accordance with subsection 4 of section 23, the action so completed shall be deemed to have been taken at an annual meeting of the corporation and such annual meeting shall be deemed to have been held on the date of the completion.
- 19. Section 121 of *The Business Corporations Act*, 1970 is \$\frac{1970}{\text{s. 121}}\$, repealed and the following substituted therefor:
 - 121. The chairman at a meeting has the right not to Where vote by ballot conduct a vote by way of ballot on any matter or group not required of matters in connection with which the form of proxy

has provided a means whereby the person whose proxy is solicited may specify how such person wishes the shares registered in his name to be voted unless,

- (a) a poll is demanded by any shareholder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the shares represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attaching to all the shares entitled to be voted and be represented at the meeting.

1970, c. 25, s. 134, subs. 4, re-enacted **20.** Subsection 4 of section 134 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Effect of declaration

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the corporation or to its shareholders for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

1970, c. 25, s. 137, subs. 1, cl. *c*, re-enacted

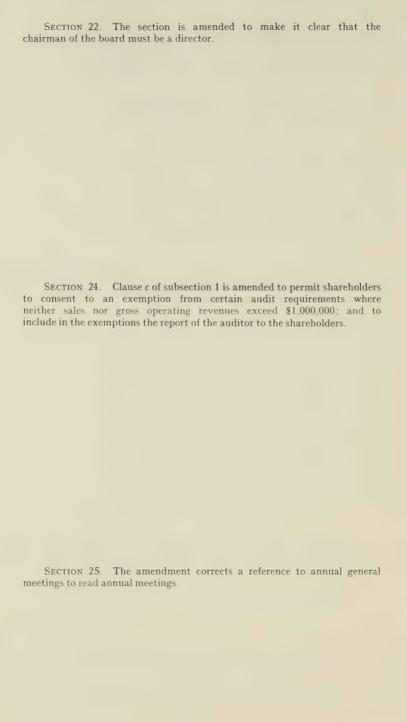
- **21.**—(1) Clause c of subsection 1 of section 137 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (c) a loan mentioned in section 146 is authorized,

1970, c. 25, s. 137, subs. 3, cl. *c*, re-enacted

- (2) Clause c of subsection 3 of the said section 137 is repealed and the following substituted therefor:
 - (c) a loan mentioned in section 146 is authorized,

Section 20. The amendment clarifies that the directors' judgment or the best interests of the corporation is taken at the time the action is taken for the purposes of determining directors' liability.

Section 21. The references to guarantees are deleted as section 146 of the Act does not authorize a guarantee.



- **22.** Section 143 of *The Business Corporations Act*, 1970 is 1970, c. 25, repealed and the following substituted therefor:
 - 143. Unless the articles or by-laws otherwise provide, no Qualifications of person shall be the president of a corporation unless chairman he is a director of the corporation, but no other president officer except the chairman of the board need be a director.
- 23. Section 148 of *The Business Corporations Act*, 1970 1970, c. 25, is amended by adding thereto the following subsection:
 - (4) For the purpose of reporting under this section ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent.
- **24.** Subsection 1 of section 167 of *The Business Corporations* 1970, c. 25, s. 167, subs. 1, *Act, 1970* is repealed and the following substituted therefor: re-enacted
 - (1) Subject to subsection 2, where in a financial year Exemption all the shareholders of a corporation that,
 - (a) is not offering its securities to the public;
 - (b) has five or fewer shareholders; and
 - (c) has assets not exceeding \$500,000 and sales or gross operating revenues not exceeding \$1,000,000, as shown on the financial statement of the corporation for the preceding year,

consent in writing, the corporation is exempt from sections 168 and 169, subsections 1 to 4 of section 170, section 171 and clause c of subsection 1 and subsection 3 of section 172 in respect of the year in which the consent is given.

25. Subsection 4 of section 171 of *The Business Corporations* 1970, c. 25, s. 171, subs. 4, Act, 1970 is repealed and the following substituted therefor: re-enacted

(4) Where facts come to the attention of the officers or discovered directors which, if known prior to the date of the last after annual meeting of shareholders, would have required a material adjustment to the financial statement presented to such meeting, the officers or directors shall communicate such facts to the auditor who reported to the shareholders under this section and the directors shall forthwith amend the financial statement and send it to the auditor.

1970, c. 25, s. 173, subs. 1, amended **26.** Subsection 1 of section 173 of *The Business Corporations Act, 1970* is amended by striking out "and" at the end of clause *i*, and adding thereto the following clauses:

- (k) the basic earnings per share for the current and preceding year for,
 - (i) income before extraordinary items, and
 - (ii) net income for the period; and
- (l) fully diluted earnings per share for the current year for.
 - (i) income before extraordinary items, and
 - (ii) net income for the period.



1970, c. 25, s. 177, subs. 1, par. 27, re-enacted

- 27. Paragraph 27 of subsection 1 of section 177 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:
 - 27. The number of common shares of the corporation purchased and the number of the common shares of the corporation resold since the date of the last preceding balance sheet, giving the date of each such purchase and resale and the price at which each such purchase or resale was made.

1970, c. 25, s. 178, subs. 3, amended **28.** Subsection 3 of section 178 of *The Business Corporations Act*, 1970 is amended by adding thereto the following paragraphs:

- 18. Where the corporation has,
 - i. in the course of a financial period, carried on business of two or more classes that, in the opinion of its directors, differ substantially from each other and the corporation is not one that has any subsidiaries at the end of that financial period, or if it has one or more subsidiaries, does not prepare its financial statement in consolidated form in respect of any subsidiary, or
 - ii. has one or more subsidiaries at the end of its financial period and prepares its financial statement in consolidated form in respect of any of the subsidiaries, if the corporation and

Section 27. The amendment clarifies the meaning of the paragraph to remove any doubts that anything but the corporation's own shares are referred to.

Section 29. The amendment includes reference to subsection 2.

any of the subsidiaries carried on between them in the course of the period business of two or more classes that in the opinion of the directors of the corporation, differ substantially from each other,

a statement of the proportions in which the amount of sales or gross revenue for that period, so far as stated in the financial statement in respect of that period, is divided among those classes of business but for the purposes of subparagraphs i and ii,

- iii. classes of business that, in the opinion of the directors, do not differ substantially from each other shall be treated as one class, and
- iv. a corporation having gross sales and revenues exceeding \$25,000,000 need only report in respect of a class of business that contributes 10 per cent or more of the total gross revenue of the corporation and a corporation having gross sales and revenues of \$25,000,000 or less need only report in respect of a class of business that contributes 15 per cent or more of the total gross revenue of the corporation.
- 19. Where there has been a business combination or acquisition arrived at through private agreements, statutory amalgamations, statutory arrangements or statutory procedures, a take-over bid as defined in Part IX of *The Securities Act, 1966*, asset purchases or other methods of materially adding to or combining with an existing business, the details thereof in accordance with the acquisition equation prescribed by the regulations.
- 20. Where securities have been issued to acquire assets, the proportion of the total securities outstanding, expressed as a percentage, represented by the securities issued to make the acquisition.
- 21. Where the pooling of interest method is used to account for a business combination or acquisition, an earings history for at least two years as though the companies were pooled for the years covered by such history, set out alongside the earnings history of the acquiring company.

^{29.} Subsection 3 of section 184 of *The Business Corporations* 1970, c. 25, s. 184, subs. 3, Act, 1970 is repealed and the following substituted therefor: re-enacted

Financial statement, on demand

(3) A shareholder of a corporation that is not offering its securities to the public is entitled to be furnished by the corporation on demand with a copy of the documents mentioned in subsections 1 and 2.

1970, c. 25, s. 185, subs. 1, cl. c, amended Corporations Act, 1970 is amended by striking out "and" at the end of subclause iv and by adding thereto the following subclauses:

- (vi) the basic earnings per share for income before extraordinary items and for net income for the period, and
- (vii) fully diluted earnings per share for income before extraordinary items and for net income.

1970, c. 25, s. 186, subs. 6, re-enacted

- **31.** Subsection 6 of section 186 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (6) Every director, officer, agent, employee, banker or auditor who refuses to produce any account or record referred to in subsection 3 and every person examined under subsection 4 or subsection 5 who refuses to answer any question related to the affairs and management of the corporation or any affiliate is guilty of an offence under section 259, in addition to any other liability to which he is subject.

1970, c. 25, s, 189, amended **32.** Section 189 of *The Business Corporations Act, 1970* is amended by adding thereto the following subsection:

Idem

(3a) Notwithstanding subsection 3, if an amendment under clause m of subsection 1 is to provide for the restrictions permitted by subsection 2 of section 47, such amendment shall be authorized by a special resolution.

1970, c. 25, s. 195, subs. 3, re-enacted

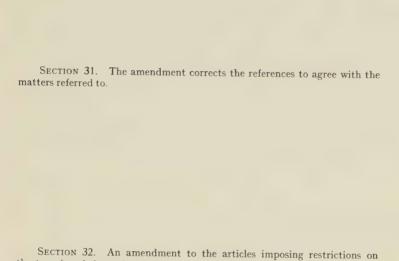
33. Subsection 3 of section 195 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Effect of certificate

(3) Upon the date set forth in the certificate of filing, the scheme becomes effective and constitutes an amendment to the articles.

1970, c. 25, s. 196, subs. 2, cl. b, re-enacted

- **34.** Clause b of subsection 2 of section 196 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:
 - (b) the objects of the amalgamated corporation.



the transfer of shares is required to be authorized by a resolution approved by virtually all the shareholders. The amendment excepts restrictions having to do with retaining status as a Canadian corporation, and in that case

SECTION 33. The commencement date for an amendment to the

Section 34. The clause deleted refers to amalgamated corporations of limited duration. No provision is made elsewhere in the Act on incorporation for limited duration. The clause substituted provides for the amalgamation agreement to set out objects of the amalgamated corporation.

articles is fixed in the same way as for the issuing of articles.

requires only a two-thirds majority.

Section 35. The amendment corrects the reference to the amalgamated corporations to read amalgamating corporations.

Sections 36 and 37. The sections are amended to change the reference to read body corporate when it refers to corporations incorporated outside Ontario and corporation when incorporated in Ontario.

- **35.** Clause d of subsection 4 of section 197 of *The Business* $_{s. 197, \text{ subs. 4},}^{1970, \text{ c. 25},}$ *Corporations Act, 1970* is repealed and the following sub-cl. d, re-enacted stituted therefor:
 - (d) the articles of incorporation of each of the amalgamating corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement.
- **36.** Section 198 of *The Business Corporations Act, 1970* is \$\frac{1970}{\text{s. 198}}\$, repealed and the following substituted therefor:
 - 198.—(1) A body corporate incorporated under the laws Certificate of of any jurisdiction other than Ontario may, if it appears to the Minister to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Minister for a certificate continuing it as if it had been incorporated under this Act, and the Minister may issue the certificate of continuation on application supported by such material as appears satisfactory, and the certificate may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Minister to be fit and proper.
 - (2) Upon the date set forth in a certificate of con-Effect of tinuation issued under subsection 1, this Act applies continuation to the body corporate to the same extent as if it had been incorporated under this Act.
- **37.** Section 199 of *The Business Corporations Act*, 1970 is 1970, c. 25, repealed and the following substituted therefor:
 - 199.—(1) A corporation may, if authorized by a special Transfer of resolution, by the Minister and by the laws of any corporations other jurisdiction, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction.
 - (2) The corporation shall file with the Minister a notice Notice of the issue of the instrument of continuation, and on and after the date of the filing of the notice this Act ceases to apply to that corporation.
 - (3) This section applies only in respect of a jurisdiction Application that has legislation in force that permits bodies corporate incorporated under its laws to apply for an instrument of continuation under the laws of Ontario.

1970, c. 25, s. 247, cl. a, re-enacted

- **38.**—(1) Clause a of section 247 of *The Business Corporations* Act, 1970 is repealed and the following substituted therefor:
 - (a) a majority of the votes cast at a general meeting of the shareholders of the corporation duly called for the purpose or by such other proportion of the votes cast as the articles provide; but such other proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting.
- (2) Clause c of the said section 247 is repealed and the following substituted therefor:
 - (c) all its incorporators or their personal representatives at any time within two years after the date set forth in its certificate of incorporation where the corporation has not commenced business and has not issued any shares.

1970, c. 25, s. 248, subs. 2, cl. *b*, re-enacted

- **39.** Clause b of subsection 2 of section 248 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (b) the date set forth in its certificate of incorporation.

1970, c. 25, s. 251, subs. 4, re-enacted

40. Subsection 4 of section 251 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Revival

R.S.O. 1960, c. 71 (4) Where a corporation is dissolved under subsection 3, or was dissolved in 1970 under subsection 2 of section 326 of The Corporations Act, the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and ' franchises, and is subject to all its liabilities, contracts. disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

1970, c. 25, s. 252, subs. 1, re-enacted **41.** Subsection 1 of section 252 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Section 38. Subsection 1. The shareholders now may authorize dissolution by a majority vote but the articles may provide a different percentage. The amendment ensures that the new percentage fixed by the articles will not be less than 50 per cent.

Subsection 2. The reference to the effective date of incorporation is changed to agree with the fixing of the effective date by setting it forth in the certificate.

Section 39. The commencement date for articles of dissolution is fixed in the same way as for other articles.

Section 40. The amendment makes it clear that corporations dissolved under *The Corporations Act* before the coming into force of the Act, whose time for revival had not run out prior to the 1st of January, 1971 may be revived under subsection 4 of section 251 of the Act.

Section 41. The amendment deletes reference to incorporation for limited duration.

Section 42. The amendment is for clarification.

Section 43. The amendment permits evidence of when facts upon which a prosecution is based first came to the knowledge of the Commission to be proved by certificate of the Commission.

Section 44. The amendment deletes a requirement that the Minister publish in *The Ontario Gazette* notice of filing a resolution requiring voluntary winding up. This requirement is already provided for in section 203(4).

Section 45. The amendment adds special resolutions to the instruments made before the new Act and continued unaffected. Further amendment ensures part of a by-law may be made invalid without affecting the remainder.

- (1) Notwithstanding the dissolution of a corporation Suits after under section 249, 250 or 251,
 - (a) any action, suit or other proceeding commenced by or against the corporation before its dissolution may be proceeded with as if the corporation had not been dissolved;
 - (b) any action, suit or other proceeding may be brought against the corporation within two years after its dissolution as if the corporation had not been dissolved; and
 - (c) any property that would have been available to satisfy any judgment, order or other decision if the corporation had not been dissolved remains available for such purpose.
- **42.** Subsection 3 of section 255 of *The Business Corporations* 1970, c. 25, *Act, 1970* is repealed and the following substituted therefor: re-enacted
 - (3) Where a notice is required by this Act to be given to Waiver of notice and any person, the giving of the notice may be waived abridgement or the time for the notice may be waived or of times abridged with the consent in writing of such person, whether before or after the time prescribed.
- **43.** Subsection 2 of section 260 of *The Business Corporations* 1970, c. 25, s. 260, subs. 2, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (2) No proceedings under section 259 for a contra-Idem vention of section 148 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission as certified by the Commission or a member thereof.
- **44.** Clause *d* of section 264 of *The Business Corporations Act*, 1970, c. 25, s. 264, cl. *d*, re-enacted
 - (d) of the filing of a notice by a liquidator under subsection 2 of section 215.
- **45.** Subsection 1 of section 272 of *The Business Corporations* 1970, c. 25, s. 272, subs. 1, *Act*, 1970 is repealed and the following substituted therefor: re-enacted

Continuance of letters patent, etc. (1) Any provision in the letters patent, supplementary letters patent or by-laws and any special resolution of a corporation that was valid immediately before this Act comes into force, except a provision that contravenes section 147, continues to be valid and in effect, but any additions or amendments to or deletions from any provision in the letters patent, supplementary letters patent or by-laws of a corporation shall be made in accordance with this Act.

Commence-

46.—(1) This Act, except sections 2, 3, 4, 6, 8, 10 to 12, 14, 15, 18, 21, 22, 24, 25, 27, 33 to 42, 44 and 45 comes into force on the day it receives Royal Assent.

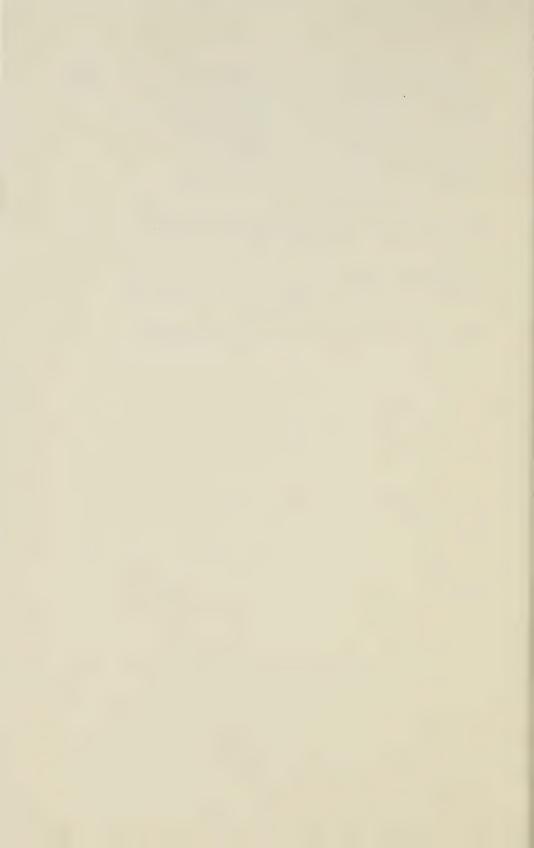
Idem

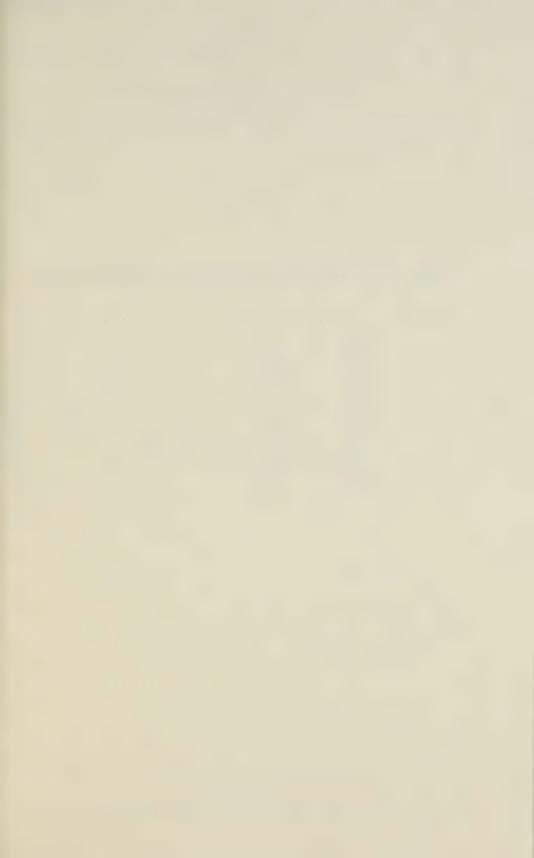
(2) Sections 2, 3, 4, 6, 8, 10 to 12, 14, 15, 18, 21, 22, 24, 25, 27, 33 to 42, 44 and 45 shall be deemed to have come into force on the 1st day of January, 1971.

Short title

47. This Act may be cited as The Business Corporations Amendment Act, 1971.







Ist Reading
June 1st, 1971

2nd Reading June 10th, 1971

3rd Reading

THE HON. ARTHUR A. WISHART
Minister of Financial and
Commercial Affairs

(Reprinted as amended by the Committee of the Whole House)

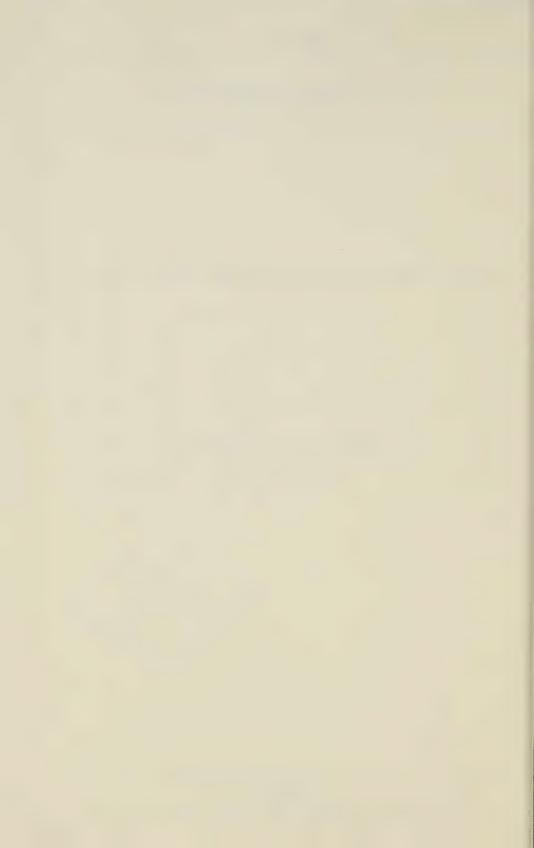
4TH SESSION, 28TH LEGISLATURE, ONTARIO 20 ELIZABETH II, 1971

An Act to amend The Business Corporations Act, 1970

THE HON. ARTHUR A. WISHART Minister of Financial and Commercial Affairs



14 18 112.00 C -Midle on the



BILL 52

1971

An Act to amend The Business Corporations Act, 1970

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. Subsection 1 of section 1 of *The Business Corporations* 1970, c. 25, Act, 1970 is amended by adding thereto the following amended paragraphs:
 - 4a. "basic earnings per share" means the amount of income attributable to each outstanding share that carries as an incident of ownership the right to participate in earnings to an unlimited degree, calculated in the manner prescribed by the regulations;
 - 14a. "fully diluted earnings per share" means the amount of income attributable to each share that would, if all potential conversions, exercises and contingent issuances had occurred during the period, be outstanding and have as an incident of ownership the right to participate in earnings to an unlimited degree, calculated in the manner prescribed by the regulations.
- 2. Subsection 9 of section 1 of *The Business Corporations* 1970, c. 25, s. 1, subs. 9, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (9) A body corporate is offering its securities to the $_{\mbox{\scriptsize securities}}^{\mbox{\scriptsize Offering}}$ public only where,
 - (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid circular has been filed under *The Securities Act, 1966*, or any pre-1966, c. 142, decessor thereof or in respect of which a prospectus has been filed under *The Corpora*-c. 72

tions Information Act, or any predecessor thereof, so long as any of such securities are outstanding; or

(b) any of its shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

except that where, upon the application of a body corporate that has fewer than fifteen shareholders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public.

1970, c. 25, s. 23, subs. 4, re-enacted

3. Subsection 4 of section 23 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Idem

(4) Any by-law, resolution or other action of a corporation that has only one shareholder consented to at any time during a corporation's existence by the signature of such shareholder is as valid and effective as if passed at a meeting of shareholders duly called, constituted and held for that purpose.

Evidentiary value of signatures

(5) Where a by-law, resolution or other action purports to have been consented to or confirmed under this section by the signatures of all the directors or shareholders, as the case may be, of the corporation, the signatures to the by-law, resolution or other action are admissible in evidence as *prima facie* proof of the signatures of the directors or shareholders, as the case may be, that they purport to represent and are admissible in evidence as *prima facie* proof that the signatories to the by-law, resolution or other action were all the directors or all the shareholders entitled to vote at meetings of shareholders, as the case may be, at the date that the by-law, resolution or other action purports so to have been consented to or confirmed.

1970, c. 25, s. 25, amended **4.** Section 25 of *The Business Corporations Act, 1970* is amended by adding thereto the following subsection:

Effective date of an amendment (3) Upon the date set forth in the certificate of filing, the resolution becomes effective and constitutes an amendment to the articles.

- **5.** Clause g of subsection 1 of section 27 of *The Business* 1970, c. 25, s. 27, subs. 1, *Corporations Act*, 1970 is repealed and the following sub-cl. g, re-enacted stituted therefor:
 - (g) the purchase for cancellation by the corporation of all or part of the shares of that class by agreement with the holders thereof.
- **6.** Subsection 1 of section 34 of *The Business Corporations* ¹⁹⁷⁰, c. 25, s. 34, subs. 1, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) Where the shares of a class of special shares are Redemption made redeemable by the articles and part only of shares the special shares are to be redeemed, the shares to be redeemed shall be selected,
 - (a) by lot in such manner as the board of directors determines;
 - (b) as nearly as may be in proportion to the number of special shares of the class registered in the name of each shareholder; or
 - (c) in such other manner as the board of directors determines with the consent of the holders of special shares of the class obtained in the manner set out in subsection 2.

but the articles may confine the manner of selection to one or more of those methods set out in clauses a, b and c.

- **7.** Subsection 1 of section 35 of *The Business Corporations* 1970, c. 25, s. 35, subs. 1, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) Where the shares of a class of special shares are made purchase of special shares for cancellation by the articles, then,
 - (a) the shares shall be purchased at the lowest price at which, in the opinion of the directors, the shares are obtainable, but not exceeding an amount stated in or determined by the articles; and
 - (b) the shares shall be purchased either,
 - (i) on the open market,
 - (ii) with the consent of all the holders of the shares of the class, or

(iii) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders,

but the articles may confine the manner of purchase to one or more of those set out in sub-clauses i, ii and iii.

1970, c. 25, s. 37, subs. 1, re-enacted 8. Subsection 1 of section 37 of *The Business Corporations* Act, 1970 is repealed and the following substituted therefor:

Surrender of mutual fund shares (1) Where the only undertaking of a corporation is the business of investing the funds of the corporation, its articles may provide for the issuing of one or more classes of mutual fund shares and fractions or parts thereof that have attached thereto conditions requiring the corporation to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof.

1970, c. 25, s. 39, subs. 5, re-enacted **9.** Subsection 5 of section 39 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Method

- (5) Where a corporation purchases its common shares under subsection 1, the purchase shall be made at the lowest price at which, in the opinion of the directors, such shares are obtainable, and,
 - (a) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders; or
 - (b) from bona fide full-time employees and former employees of the corporation; or
 - (c) where the corporation is offering its shares to the public, by purchase on the open market.

1970, c. 25, s. 44, subs. 5, re-enacted 10. Subsection 5 of section 44 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:

Idem

(5) For the purposes of subsection 4 and paragraph 21 of subsection 2 of section 15, a document evidencing indebtedness of the allottee does not constitute property and services shall be past services actually

performed for the corporation, and the value of property or services shall be the value the directors determine by express resolution to be in all the circumstances of the transaction the fair equivalent of the cash value.

- 11. Subsection 1 of section 45 of The Business Corporations 1970, c. 25, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) A corporation may provide by special by-law Commission for the payment of commissions or allowing dis-of shares counts to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the corporation, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, but, except in the case of a corporation that carries on as its principal business the business of exploring for minerals, gas or oil or of operating a producing mining, gas or oil property owned and controlled by it or a corporation at least 75 per cent of whose assets are of a wasting character, no such commission or discount shall exceed 25 per cent of the amount of the subscription price.

12. Section 48 of The Business Corporations Act, 1970 is 1970, c. 25, repealed and the following substituted therefor:

48.—(1) Except in the cases mentioned in this section, Subsidiaries a corporation shall not be a shareholder of a body shares of corporate that is its holding body corporate, and any bodies allotment or transfer of shares of a corporation to corporate its subsidiary is void.

- (2) This section does not apply to a subsidiary holding Application shares as personal representative unless the holding body corporate or a subsidiary thereof is beneficially interested under a trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money.
- (3) This section does not prevent a subsidiary that on the Exception 30th day of April, 1954, held shares of its holding body corporate from continuing to hold such shares, but, subject to subsection 2, the subsidiary has no right to vote at meetings of shareholders of the holding body corporate or at meetings of any class of shareholders thereof.

Nominees

(4) Subject to subsection 2, subsections 1 and 3 apply in relation to a nominee for a corporation that is a subsidiary as if the references in subsections 1 and 3 to such a corporation included references to a nominee for it.

1970, c. 25, s. 51, subs. 5, re-enacted

13. Subsection 5 of section 51 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:

Transfer restricted

- (5) A share certificate issued for one or more shares the transfer of which is restricted in accordance with the articles shall,
 - (a) legibly state on the certificate or have attached thereto a legible statement of the restrictions on the right to transfer the shares; or
 - (b) legibly state on the certificate that there are restrictions on the right to transfer the shares and that a copy of the full text thereof is obtainable on demand and without fee from the corporation.

Idem

(6) Where a share certificate contains a statement as provided in clause *b* of subsection 5, the corporation shall furnish to the shareholder on demand without fee a copy of the full text of the restrictions on the right to transfer the shares.

1970, c. 25, s. 56, subs. 3, re-enacted **14.** Subsection 3 of section 56 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Exception

(3) Subsection 1 does not apply to an instrument filed or registered under any other Act.

1970, c. 25, s. 57, subs. 3, re-enacted **15.** Subsection 3 of section 57 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Resident

(3) Every body corporate whose debt obligations are offered to the public in Ontario under a trust indenture and every body corporate whose debt obligations are issued in Ontario under a trust indenture shall have a trustee resident or authorized to do business in Ontario.

1970, c. 25, s. 63, subs. 1, amended

- **16.** Subsection 1 of section 63 of *The Business Corporations Act, 1970* is amended by adding thereto the following clauses:
 - (fa) "genuine" means free from forgery or counterfeiting;

- (fb) "noted conspicuously" and "appearing conspicuously" mean written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them;
- (j) "unauthorized", when used with reference to a signature or endorsement, means one made without actual, implied or apparent authority and includes a forgery.
- 17. Subsection 1 of section 76 of *The Business Corporations* 1970, c. 25, s. 76, subs. 1, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) A person placing his signature upon a security as Warranties authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that,
 - (a) the security is genuine and in proper form;
 - (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
 - (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.
- **18.** Section 107 of *The Business Corporations Act*, 1970 is 1970, c. 25, amended by adding thereto the following subsection:
 - (2) Where a corporation has only one shareholder and, Idem on or before the date the annual meeting is required to be held, the action required to be taken at the annual meeting is completed in accordance with subsection 4 of section 23, the action so completed shall be deemed to have been taken at an annual meeting of the corporation and such annual meeting shall be deemed to have been held on the date of the completion.
- 19. Section 121 of *The Business Corporations Act, 1970* is \$\frac{1970}{\text{s. 121}}\$, repealed and the following substituted therefor:
 - 121. The chairman at a meeting has the right not to Where vote conduct a vote by way of ballot on any matter or group not required of matters in connection with which the form of proxy

has provided a means whereby the person whose proxy is solicited may specify how such person wishes the shares registered in his name to be voted unless,

- (a) a poll is demanded by any shareholder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the shares represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attaching to all the shares entitled to be voted and be represented at the meeting.

1970, c. 25, s. 134, subs. 4, re-enacted

20. Subsection 4 of section 134 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Effect of declaration

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the corporation or to its shareholders for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

1970, c. 25, s. 137, subs. 1, cl. *c*, re-enacted

- **21.**—(1) Clause c of subsection 1 of section 137 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (c) a loan mentioned in section 146 is authorized,

1970, c. 25, s. 137, subs. 3, cl. *c*, re-enacted

- (2) Clause c of subsection 3 of the said section 137 is repealed and the following substituted therefor:
 - (c) a loan mentioned in section 146 is authorized,

- **22.** Section 143 of *The Business Corporations Act*, 1970 is \$1970, c. 25, repealed and the following substituted therefor:
 - 143. Unless the articles or by-laws otherwise provide, no Qualifications of person shall be the president of a corporation unless chairman he is a director of the corporation, but no other president officer except the chairman of the board need be a director.
- **23.** Section 148 of *The Business Corporations Act*, 1970 1970, c. 25, is amended by adding thereto the following subsection:
 - (4) For the purpose of reporting under this section ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent.
- **24.** Subsection 1 of section 167 of *The Business Corporations* 1970, c. 25, s. 167, subs. 1, *Act*, 1970 is repealed and the following substituted therefor: re-enacted
 - (1) Subject to subsection 2, where in a financial year Exemption all the shareholders of a corporation that,
 - (a) is not offering its securities to the public;
 - (b) has five or fewer shareholders; and
 - (c) has assets not exceeding \$500,000 and sales or gross operating revenues not exceeding \$1,000,000, as shown on the financial statement of the corporation for the preceding year,

consent in writing, the corporation is exempt from sections 168 and 169, subsections 1 to 4 of section 170, section 171 and clause c of subsection 1 and subsection 3 of section 172 in respect of the year in which the consent is given.

- **25.** Subsection 4 of section 171 of *The Business Corporations* 1970, c. 25, s. 171, subs. 4, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (4) Where facts come to the attention of the officers or discovered directors which, if known prior to the date of the last after annual meeting of shareholders, would have required a material adjustment to the financial statement presented to such meeting, the officers or directors shall communicate such facts to the auditor who reported to the shareholders under this section and the directors shall forthwith amend the financial statement and send it to the auditor.

1970, c. 25, s. 173, subs. 1, amended

- **26.** Subsection 1 of section 173 of *The Business Corporations Act, 1970* is amended by striking out "and" at the end of clause *i*, and adding thereto the following clauses:
 - (k) the basic earnings per share for the current and preceding year for,
 - (i) income before extraordinary items, and
 - (ii) net income for the period; and
 - (l) fully diluted earnings per share for the current year for.
 - (i) income before extraordinary items, and
 - (ii) net income for the period.

1970, c. 25, s. 177, subs. 1, par. 27, re-enacted

- 27. Paragraph 27 of subsection 1 of section 177 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - 27. The number of common shares of the corporation purchased and the number of the common shares of the corporation resold since the date of the last preceding balance sheet, giving the date of each such purchase and resale and the price at which each such purchase or resale was made.

1970, c. 25, s. 178, subs. 3, amended

- **28.** Subsection 3 of section 178 of *The Business Corporations Act, 1970* is amended by adding thereto the following paragraphs:
 - 18. Where the corporation has,
 - i. in the course of a financial period, carried on business of two or more classes that, in the opinion of its directors, differ substantially from each other and the corporation is not one that has any subsidiaries at the end of that financial period, or if it has one or more subsidiaries, does not prepare its financial statement in consolidated form in respect of any subsidiary, or
 - ii. has one or more subsidiaries at the end of its financial period and prepares its financial statement in consolidated form in respect of any of the subsidiaries, if the corporation and

any of the subsidiaries carried on between them in the course of the period business of two or more classes that in the opinion of the directors of the corporation, differ substantially from each other,

a statement of the proportions in which the amount of sales or gross revenue for that period, so far as stated in the financial statement in respect of that period, is divided among those classes of business but for the purposes of subparagraphs i and ii,

- iii. classes of business that, in the opinion of the directors, do not differ substantially from each other shall be treated as one class, and
- iv. a corporation having gross sales and revenues exceeding \$25,000,000 need only report in respect of a class of business that contributes 10 per cent or more of the total gross revenue of the corporation and a corporation having gross sales and revenues of \$25,000,000 or less need only report in respect of a class of business that contributes 15 per cent or more of the total gross revenue of the corporation.
- 19. Where there has been a business combination or acquisition arrived at through private agreements, statutory amalgamations, statutory arrangements or statutory procedures, a take-over bid as defined in Part IX of *The Securities Act, 1966*, asset purchases or other methods of materially adding to or combining with an existing business, the details thereof in accordance with the acquisition equation prescribed by the regulations.
- 20. Where securities have been issued to acquire assets, the proportion of the total securities outstanding, expressed as a percentage, represented by the securities issued to make the acquisition.
- 21. Where the pooling of interest method is used to account for a business combination or acquisition, an earings history for at least two years as though the companies were pooled for the years covered by such history, set out alongside the earnings history of the acquiring company.

29. Subsection 3 of section 184 of *The Business Corporations* 1970, c. 25, 8. 184, subs. 3, Act, 1970 is repealed and the following substituted therefor: re-enacted

Financial statement, on demand

- (3) A shareholder of a corporation that is not offering its securities to the public is entitled to be furnished by the corporation on demand with a copy of the documents mentioned in subsections 1 and 2.
- 1970, c. 25, s. 185, subs. 1, cl. c, amended Corporations Act, 1970 is amended by striking out "and" at the end of subclause iv and by adding thereto the following subclauses:
 - (vi) the basic earnings per share for income before extraordinary items and for net income for the period, and
 - (vii) fully diluted earnings per share for income before extraordinary items and for net income.

1970, c. 25, s. 186, subs. 6, re-enacted

- **31.** Subsection 6 of section 186 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (6) Every director, officer, agent, employee, banker or auditor who refuses to produce any account or record referred to in subsection 3 and every person examined under subsection 4 or subsection 5 who refuses to answer any question related to the affairs and management of the corporation or any affiliate is guilty of an offence under section 259, in addition to any other liability to which he is subject.

1970, c. 25, s, 189, amended **32.** Section 189 of *The Business Corporations Act, 1970* is amended by adding thereto the following subsection:

Idem

(3a) Notwithstanding subsection 3, if an amendment under clause *m* of subsection 1 is to provide for the restrictions permitted by subsection 2 of section 47, such amendment shall be authorized by a special resolution.

1970, c. 25, s. 195, subs. 3, re-enacted

33. Subsection 3 of section 195 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Effect of certificate

(3) Upon the date set forth in the certificate of filing, the scheme becomes effective and constitutes an amendment to the articles.

1970, c. 25, s. 196, subs. 2, cl. b, re-enacted

- **34.** Clause b of subsection 2 of section 196 of *The Business Corporations Act*, 1970 is repealed and the following substituted therefor:
 - (b) the objects of the amalgamated corporation.

- **35.** Clause d of subsection 4 of section 197 of *The Business* $_{s.197, \, \text{subs.}\, 4,}^{1970, \, \text{c.}\, 25,}$ *Corporations Act, 1970* is repealed and the following sub- $_{cl.\,d,}^{\text{cl.}\,d,}$ stituted therefor:
 - (d) the articles of incorporation of each of the amalgamating corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement.
- **36.** Section 198 of *The Business Corporations Act, 1970* is \$\frac{1970}{\text{s. 198}}\$, repealed and the following substituted therefor:
 - 198.—(1) A body corporate incorporated under the laws Certificate of of any jurisdiction other than Ontario may, if it appears to the Minister to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Minister for a certificate continuing it as if it had been incorporated under this Act, and the Minister may issue the certificate of continuation on application supported by such material as appears satisfactory, and the certificate may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Minister to be fit and proper.
 - (2) Upon the date set forth in a certificate of con-Effect of tinuation issued under subsection 1, this Act applies continuation to the body corporate to the same extent as if it had been incorporated under this Act.
- **37.** Section 199 of *The Business Corporations Act, 1970* is 1970, c. 25, repealed and the following substituted therefor:

 1970 is 1970, c. 25, repealed and the following substituted therefor:
 - 199.—(1) A corporation may, if authorized by a special Transfer of resolution, by the Minister and by the laws of any corporations other jurisdiction, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction.
 - (2) The corporation shall file with the Minister a notice Notice of the issue of the instrument of continuation, and on and after the date of the filing of the notice this Act ceases to apply to that corporation.
 - (3) This section applies only in respect of a jurisdiction Application that has legislation in force that permits bodies corporate incorporated under its laws to apply for an instrument of continuation under the laws of Ontario.

1970, c. 25, s. 247, cl. *a*, re-enacted

- **38.**—(1) Clause *a* of section 247 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (a) a majority of the votes cast at a general meeting of the shareholders of the corporation duly called for the purpose or by such other proportion of the votes cast as the articles provide; but such other proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting.
- (2) Clause c of the said section 247 is repealed and the following substituted therefor:
 - (c) all its incorporators or their personal representatives at any time within two years after the date set forth in its certificate of incorporation where the corporation has not commenced business and has not issued any shares.

1970, c. 25, s. 248, subs. 2, cl. b, re-enacted

- **39.** Clause b of subsection 2 of section 248 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:
 - (b) the date set forth in its certificate of incorporation.

1970, c. 25, s. 251, subs. 4, re-enacted

40. Subsection 4 of section 251 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

Revival

R.S.O. 1960, c. 71

- (4) Where a corporation is dissolved under subsection 3. or was dissolved in 1970 under subsection 2 of section 326 of The Corporations Act, the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and • franchises, and is subject to all its liabilities, contracts. disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.
- 1970, c. 25, s. 252, subs. 1, re-enacted
- **41.** Subsection 1 of section 252 of *The Business Corporations Act, 1970* is repealed and the following substituted therefor:

- (1) Notwithstanding the dissolution of a corporation Suits after under section 249, 250 or 251,
 - (a) any action, suit or other proceeding commenced by or against the corporation before its dissolution may be proceeded with as if the corporation had not been dissolved;
 - (b) any action, suit or other proceeding may be brought against the corporation within two years after its dissolution as if the corporation had not been dissolved; and
 - (c) any property that would have been available to satisfy any judgment, order or other decision if the corporation had not been dissolved remains available for such purpose.
- **42.** Subsection 3 of section 255 of *The Business Corporations* 1970, c. 25, *Act, 1970* is repealed and the following substituted therefor: re-enacted
 - (3) Where a notice is required by this Act to be given to Waiver of notice and any person, the giving of the notice may be waived abridgement or the time for the notice may be waived or abridged with the consent in writing of such person, whether before or after the time prescribed.
- **43.** Subsection 2 of section 260 of *The Business Corporations* 1970, c. 25, s. 260, subs. 2, Act, 1970 is repealed and the following substituted therefor: re-enacted
 - (2) No proceedings under section 259 for a contra-Idem vention of section 148 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission as certified by the Commission or a member thereof.
- **44.** Clause *d* of section 264 of *The Business Corporations Act*, 1970, c. 25, s. 264, cl. *d*, re-enacted re-enacted
 - (d) of the filing of a notice by a liquidator under subsection 2 of section 215.
- **45.** Subsection 1 of section 272 of *The Business Corporations* 1970, c. 25, s. 272, subs. 1, 1970 is repealed and the following substituted therefor: re-enacted

Continuance of letters patent, etc. (1) Any provision in the letters patent, supplementary letters patent or by-laws and any special resolution of a corporation that was valid immediately before this Act comes into force, except a provision that contravenes section 147, continues to be valid and in effect, but any additions or amendments to or deletions from any provision in the letters patent, supplementary letters patent or by-laws of a corporation shall be made in accordance with this Act.

Commence-

46.—(1) This Act, except sections 2, 3, 4, 6, 8, 10 to 12, 14, 15, 18, 21, 22, 24, 25, 27, 33 to 42, 44 and 45 comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2, 3, 4, 6, 8, 10 to 12, 14, 15, 18, 21, 22, 24, 25, 27, 33 to 42, 44 and 45 shall be deemed to have come into force on the 1st day of January, 1971.

Short title

47. This Act may be cited as The Business Corporations Amendment Act, 1971.



Continuance of letters patent, etc. (1) Any provision in the letters patent, supplementary letters patent or by-laws and any special resolution of a corporation that was valid immediately before this Act comes into force, except a provision that contravenes section 147, continues to be valid and in effect, but any additions or amendments to or deletions from any provision in the letters patent, supplementary letters patent or by-laws of a corporation shall be made in accordance with this Act.

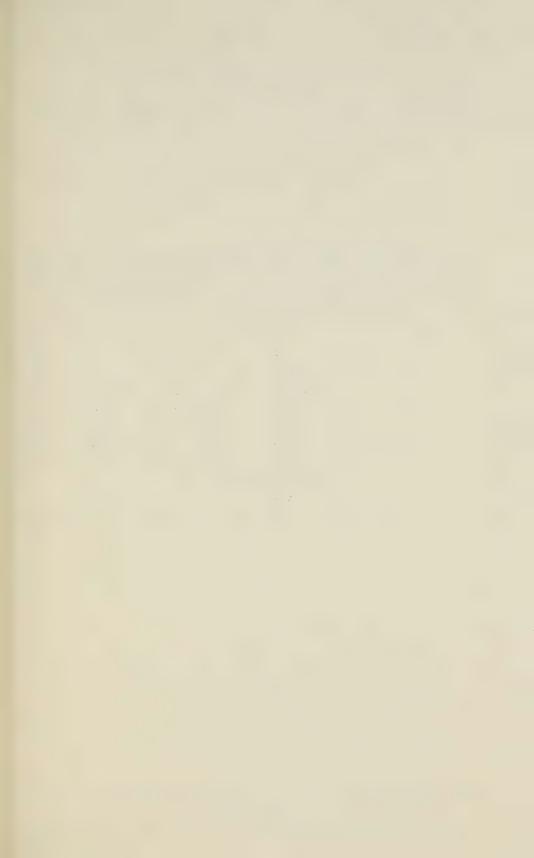
Commencement **46.**—(1) This Act, except sections 2, 3, 4, 6, 8, 10 to 12, 14, 15, 18, 21, 22, 24, 25, 27, 33 to 42, 44 and 45 comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2, 3, 4, 6, 8, 10 to 12, 14, 15, 18, 21, 22, 24, 25, 27, 33 to 42, 44 and 45 shall be deemed to have come into force on the 1st day of January, 1971.

Short title

47. This Act may be cited as The Business Corporations Amendment Act, 1971.



An Act to amend The Business Corporations Act, 1970

1st Reading June 1st, 1971

2nd Reading
June 10th, 1971

3rd Reading
June 17th, 1971

THE HON. ARTHUR A. WISHART Minister of Financial and Commercial Affairs

4TH Session, 28TH LEGISLATURE, ONTARIO 20 ELIZABETH II, 1971

Covernment

An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

THE HON. W. G. DAVIS
Prime Minister



EXPLANATORY NOTES

General

The purpose of this Bill is to eliminate uncertainties in the present law as to the procedure and as to the powers of tribunals exercising statutory powers of decision affecting the rights of individuals.

It will be recalled that at the 1968-69 Session a Bill (Bill 130) with the same object as this Bill was introduced but not proceeded with in the expectation that its provisions would be improved as the result of intensive study by the Bench and Bar. As a result, many helpful comments and criticisms were made and the Bill has been extensively reviewed and revised.

Procedure for tribunals

Under present law where a statutory power of decision is conferred on a tribunal, although no procedure is laid down in the statute, the courts may by interpretation, presume that the tribunal is not to exercise the power arbitrarily or capriciously. They will apply the procedural "Rules of natural justice" to require the tribunal to follow a fair procedure. This presumption does not apply to all statutory powers of decision.

The requirements of the rules of natural justice are not uniform in application and may be held to vary from statute to statute.

Two uncertainties as to the procedure to be followed by a tribunal exist under the present law.

- 1. Do the "Rules of natural justice" apply so that the tribunal is required to follow a fair procedure? This question is often related to the question whether the power conferred on the tribunal is "judicial or quasi judicial" or "purely administrative". These terms are of uncertain application. The Bill is aimed at limiting this uncertainty and avoiding this perplexing language by providing minimum rules of procedure that will apply in all cases where a statute conferring a power of decision requires that a hearing be held before the decision is made. The proposal is that in future, statutes will expressly provide that a hearing is or is not required.
- 2. When the rules of natural justice apply, what is the required procedure? The statute is aimed at removing this uncertainty by providing standard minimum rules of a fair procedure which will automatically apply to all tribunals required to hold hearings.

Powers of tribunals

The powers of tribunals under the present law vary with each statute. Sometimes very broad powers e.g., "the powers of a civil court" are conferred on a tribunal. The same effect is achieved by conferring the powers that may be conferred on a commissioner under *The Public Inquiries Act*. Such powers include amongst other things the power to issue a bench warrant for the arrest and detention of a witness and power to direct imprisonment of persons for contempt. A tribunal may consist of one or more persons without previous experience in the exercise of such wide powers. The Bill proposes standard powers for compelling attendance of witnesses or production of evidence that may be exercised by a tribunal with suitable judicial controls to limit possible arbitrary action.

The general nature of the matters provided for in the Bill, with a reference to the section number of the Bill and the corresponding recommendation in McRuer Report No. 1, are set out below.

1. The Act will apply to proceedings by a tribunal in the exercise of a statutory power of decision where a hearing is required. Exceptions to the application of the Act are enumerated to exclude tribunals that are required to hold a hearing but that already have a proper procedure or to eliminate doubt.

Section 3 (Recommendation 31(a))

Notwithstanding the requirement of a hearing, informal settlements may be arrived at by agreement or consent without following the minimum rules of procedure, or a party may otherwise waive his rights under the rules.

Section 4 (Recommendation 62)

- 3. To eliminate uncertainty it is proposed that the parties to a proceeding before a tribunal should be specified in the statute setting it up. Where they are not specified the present law is retained.
 Section 5
- Reasonable notice of a hearing is required to be given to the parties. The hearing may proceed if a party does not attend after being given notice.
 Sections 6 and 7 (Recommendation 33)
- Reasonable notice of the case to be met is to be given to parties whose rights may be specifically affected.
 Section 8 (Recommendation 34)
- 6. Hearings are in public except in specified circumstances.

 Section 9 (Recommendation 37 in part)

Hearings before self governing bodies are not dealt with as it is felt that they should be dealt with specifically in the statute establishing the self governing body.

- 7. Parties are entitled to counsel and to examine and cross-examine witnesses.

 Section 10 (Recommendations 40 and 42)
- 8. Witnesses are given a new right to be advised by counsel.
 Section 11 (Recommendation 41)
- Tribunals are empowered to summon witnesses and require production of documents. Such summons may be enforced on application to the High Court of justice.

Sections 12 and 13 (Recommendations 36 and 38)

- 10. A witness is given automatic protection against self incrimination.

 Section 14
- 11. Evidence at a hearing before a tribunal is not confined to sworn evidence or evidence admissible in the courts. The law of evidentiary privilege is retained.

Section 15 (Recommendations 39 and 43)

12. A tribunal is permitted to take official notice in reaching its decision of generally recognized technical or scientific facts or opinions within its specialized knowledge.

Section 16 (Recommendation 44 in part)

It was felt that it is not practicable to require an expert tribunal to give formal notice of everything it may take notice of although much of it may be well known to the parties or be inconsequential.

13. The decision of a tribunal is required to be in writing and sent to the parties. Reasons are to be given if requested. Sections 17 and 18 (Recommendations 45 and 47 in part)

The wide variety of and detailed provisions concerning appeals from certain tribunals render it impracticable to make advice as to appeals a universal requirement in notices of decision as recommended. This should be dealt with specifically in the rules of procedure for each tribunal.

14. A decision of a tribunal is enforceable in the name of the tribunal after filing in the Supreme Court, in the same manner as an order of the court.

Section 19 (Recommendation 46)

- 15. A tribunal is required to keep a record of its proceedings.

 Section 20 (Recommendation 48)
- 16. A tribunal may adjourn its hearings from time to time. Section 21 (Recommendation 35)
- 17. A tribunal is given power to administer oaths.

 Section 22 (Recommendation 39)
- 18. Special provision is made for the giving of notice of hearings and decisions where members of the public may be parties. Section 24
- 19. Where an appeal is taken from a decision of a tribunal it operates as a stay of the decision of the tribunal unless otherwise ordered. Section 25
- A Statutory Powers Rules Committee is established.
 Sections 26 to 31 (Recommendations 31a, 56, 58, 59 and 60 in part)

The Committee is not given power to make rules of procedure for all tribunals. It was felt that if the statute establishing a tribunal authorized the making of rules of procedure for the tribunal and this Act empowered the Statutory Powers Rules Committee to make rules of procedure for the tribunal, confusion and conflict would result. However, the Bill provides that no rules of procedure for a tribunal may be made until after consultation with the Committee. The establishment of proper rules of procedure will be ensured by the requirement of consultation.

BILL 53 1971

1

An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) "Committee" means the Statutory Powers Procedure Rules Committee established by this Act;
- (b) "licence" includes any permit, certificate, approval, registration or similar form of permission required by law;
- (c) "municipality" has the same meaning as in The R.S.O. 1960, Department of Municipal Affairs Act, and includes a district, metropolitan and regional municipality and their local boards;
- (d) "statutory power of decision" means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,
 - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not;
- (e) "tribunal" means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute.

Meaning of "person" extended

(2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to proceedings in the exercise of a statutory power of decision under the statute conferring the power, shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties.

PART I

MINIMUM RULES FOR PROCEEDINGS OF CERTAIN TRIBUNALS

Interpre-

2. In this Part,

- (a) "hearing" means a hearing in any proceedings;
- (b) "proceedings" means proceedings to which this Part applies.

Application of Part I

3.—(1) Subject to subsection 2, this Part applies to proceedings by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceedings an opportunity for a hearing before making a decision.

Where Part I does not apply

- (2) This Part does not apply to proceedings,
 - (a) before the Assembly or any committee of the Assembly;
 - (b) in or before,
 - (i) the Supreme Court,
 - (ii) a county or district court,
 - (iii) a surrogate court,

1968, c. 103

- (iv) a provincial court established under *The Provincial Courts Act*, 1968,
- (v) a small claims court,
- (vi) a justice of the peace,

R.S.O. 1960, c. 65

- (vii) an election court under *The Controverted Elections Act*;
- (c) to which the Rules of Practice and Procedure of the Supreme Court apply;

R.S.O. 1960, cc. 18, 202

(d) before an arbitrator to which The Arbitrations Act or The Labour Relations Act applies;

- (e) at a coroner's inquest;
- (f) of a commission appointed under The Public In-1971, c..... quiries Act, 1971;
- (g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he may have power to make;
- (h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned.
- **4.** Notwithstanding anything in this Act and unless other-Disposition wise provided in the Act under which the proceedings arise, proceedings or the tribunal otherwise directs, any proceedings may be hearing disposed of by,
 - (a) agreement;
 - (b) consent order; or
 - (c) a decision of the tribunal given,
 - (i) without a hearing, or
 - (ii) without compliance with any other requirement of this Act,

where the parties have waived such hearing or compliance.

- **5.** The parties to any proceedings shall be the persons Parties specified as parties by or under the statute under which the proceedings arise or, if not so specified, persons entitled by law to be parties to the proceedings.
- **6.**—(1) The parties to any proceedings shall be given Notice of reasonable notice of the hearing by the tribunal.
 - (2) A notice of a hearing shall include,

Idem

- (a) a statement of the time, place and purpose of the hearing;
- (b) a reference to the statutory authority under which the hearing will be held; and

(c) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in his absence and he will not be entitled to any further notice in the proceedings.

Effect of nonattendance at hearing after due notice 7. Where notice of a hearing has been given to a party to any proceedings in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in his absence and he is not entitled to any further notice in the proceedings.

Where character, etc., of a party is in issue

8. Where the good character, propriety of conduct or competence of a party is an issue in any proceedings, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

Hearings to be public, exceptions

- **9.**—(1) A hearing shall be open to the public except where the tribunal is of the opinion that,
 - (a) matters involving public security may be disclosed; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing concerning any such matters in camera.

Maintenance of order at hearings

(2) A tribunal may make such orders or give such directions at a hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.

Rights of parties to counsel, to examine witnesses, etc., at hearings

- 10. A party to proceedings may at a hearing,
 - (a) be represented by counsel or an agent;
 - (b) call and examine witnesses and present his arguments and submissions;

- (c) conduct cross-examinations of witnesses at a hearing reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence.
- 11.—(1) A witness at a hearing is entitled to be advised by Rights of his counsel or agent as to his rights but such counsel or agent to counsel may take no other part in the hearing without leave of the tribunal.
- (2) Where a hearing is *in camera*, a counsel or agent for a ^{Idem} witness is not entitled to be present except when that witness is giving evidence.
- **12.**—(1) A tribunal may require any person, including a ^{Summonses} party, by summons,
 - (a) to give evidence on oath or affirmation at a hearing;
 - (b) to produce in evidence at a hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceedings and admissible at a hearing.

- (2) A summons issued under subsection 1 shall be in Form Form and service of summonses
 - (a) where the tribunal consists of one person, shall be signed by him; or
 - (b) where the tribunal consists of more than one person, shall be signed by the chairman of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal; and
 - (c) shall be served personally on the person summoned who shall be paid the like fees and allowances for his attendance as a witness before the tribunal as are paid for the attendance of a witness summoned to attend before the Supreme Court.
- (3) Upon proof to the satisfaction of a judge of the Supreme Bench Court of the service of a summons under this section upon a person and that,
 - (a) such person has failed to attend or to remain in attendance at a hearing in accordance with the requirements of the summons;

- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and
- (c) his presence is material to the ends of justice,

the judge may, by his warrant in Form 2, directed to any sheriff, police officer or constable, cause such witness to be apprehended anywhere within Ontario and forthwith to be brought before the tribunal and to be detained in custody as the judge may order until his presence as a witness before the tribunal is no longer required, or, in the discretion of the judge, to be released on a recognizance (with or without sureties) conditioned for appearance to give evidence.

Proof of service

(4) Service of a summons and payment of tender of fees or allowance may be proved by affidavit in an application under subsection 3.

Certificate of facts

(5) Where an application under subsection 3 is made on behalf of a tribunal, the person constituting the tribunal, or where the tribunal consists of two or more persons, the chairman thereof may certify to the judge the facts relied on to establish that the presence of the person summoned is material to the ends of justice and such certificate may be accepted by the judge as proof of such facts.

Idem

(6) Where an application under subsection 3 is made by a party to the proceedings, proof of the facts relied on to establish that the presence of the person summoned is material to the ends of justice may be by affidavit of such party.

Contempt proceedings

- 13. Where any person without lawful excuse,
 - (a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or
 - (b) being in attendance as a witness at a hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his power or control legally required by the tribunal to be produced by him or to answer any question to which the tribunal may legally require an answer; or
 - (c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on application of a party to the proceedings, state a case to the Divisional Court setting out the facts and that court may, on application on behalf of and in the name of the tribunal or by such party,

inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

- 14. A witness at a hearing shall be deemed to have objected Protection to answer any question asked him upon the ground that his witnesses answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence.
- **15.**—(1) Subject to subsections 2 and 3, a tribunal may What is admit as evidence at a hearing, whether or not given or in evidence proven under oath or affirmation or admissible as evidence in a court,
 - (a) any oral testimony; and
 - (b) any document or other thing,

relevant to the subject matter of the proceedings and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

(2) Nothing is admissible in evidence at a hearing,

What is inadmissible in evidence at a hearing

- (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or
- (b) that is inadmissible by the statute under which the proceedings arise or any other statute.
- (3) Nothing in subsection 1 overrides the provisions of any Conflicts Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings.
- (4) Where a tribunal is satisfied as to their authenticity, ^{Copies} a copy of a document or other thing may be admitted as evidence at a hearing.
- (5) Where a document has been filed in evidence at a hear-Photocopies ing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified copy admissible in filed in evidence at a hearing, certified to be a true copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document.

Notice of facts and opinions

- **16.** A tribunal may, in making its decision in any proceedings,
 - (a) take notice of facts that may be judicially noticed; and
 - (b) take notice of any generally recognized scientific or technical facts, information, or opinions within its scientific or specialized knowledge.

Decision

17. A tribunal shall give its final decision and order, if any, in any proceedings in writing and shall give reasons in writing therefor if requested by a party.

Notice of

18. A tribunal shall send by registered mail addressed to the parties to any proceedings who took part in the hearing, at their addresses last known to the tribunal, a copy of its final decision and order, if any, in the proceedings, together with the reasons therefor, where reasons have been given, and each party shall be deemed to have received a copy of the decision or order on the third day after the day of mailing unless the party did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the copy of the decision or order until a later date.

Enforcement of decision

19.—(1) A certified copy of a final decision and order, if any, of a tribunal in any proceedings may be filed in the office of the Registrar of the Supreme Court by the tribunal or by a party and, if it is for the payment of money, it may be enforced at the instance of the tribunal or of such party in the name of the tribunal in the same manner as a judgment of that court, and in all other cases by an application by the tribunal or by such party to the court for such order as the court may consider just.

Idem

- (2) Where a tribunal having power to do so makes an order or decision rescinding or varying an order or decision previously made by it that has been filed under subsection 1, upon filing in accordance with subsection 1 the order or decision rescinding or varying the order or decision previously made,
 - (a) if the order or decision rescinds the order or decision previously made, the order or decision previously made ceases to have effect for the purposes of subsection 1; or

- (b) if the order or decision varies the order or decision previously made, the order or decision previously made as so varied may be enforced in a like manner as an order or decision filed under subsection 1.
- **20.** A tribunal shall compile a record of any proceedings Record of in which a hearing has been held which shall include,
 - (a) any application, complaint, reference or other document, if any, by which the proceedings were commenced:
 - (b) the notice of any hearing;
 - (c) any intermediate orders made by the tribunal;
 - (d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceedings;
 - (e) the transcript, if any, of the oral evidence given at the hearing; and
 - (f) the decision of the tribunal and the reasons therefor, where reasons have been given.
- **21.** A hearing may be adjourned from time to time by a Adjourn-tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held.
- **22.** A member of a tribunal has power to administer oaths Administration of and affirmations for the purpose of any of its proceedings and oaths the tribunal may require evidence before it to be given under oath or affirmation.
- **23.**—(1) A tribunal may make such orders or give such Abuse of directions in proceedings before it as it considers proper to prevent abuse of its processes.
- (2) A tribunal may reasonably limit further cross-examina- Limitation on cross-tion of a witness where it is satisfied that the cross-examination examination of the witness has been sufficient to disclose fully and fairly the facts in relation to which he has given evidence.
- (3) A tribunal may exclude from a hearing anyone, other Exclusion of agents than a legally qualified counsel, appearing as an agent on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to

advise the party or witness or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser.

Notice, etc.

- **24.**—(1) Where a tribunal is of opinion that because the parties to any proceedings before it are so numerous or for any other reason, it is impracticable,
 - (a) to give notice of the hearing; or
 - (b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents of notice

(2) A notice of a decision given by a tribunal under clause bof subsection 1 shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained.

Appeal operates as stav. exception

25. Unless it is expressly provided to the contrary in the Act under which the proceedings arise, an appeal from a decision of a tribunal to a court or other appellate tribunal operates as a stay in the matter except where the tribunal or the court or other body to which the appeal is taken otherwise orders.

Idem 1971, c. ...

(2) An application for judicial review under The Judicia-Review Procedure Act, 1971, or the bringing of proceedings specified in subsection 1 of section 2 of that Act is not an appeal within the meaning of subsection 1.

PART II

STATUTORY POWERS PROCEDURE RULES COMMITTEE

- 26.—(1) There shall be a committee to be known as the composition Statutory Powers Procedure Rules Committee composed of,
 - (a) the Deputy Minister of Justice and Deputy Attorney General who shall be chairman of the Committee, but in his absence or at his request his nominee shall act in his place;
 - (b) the chairman of the Ontario Law Reform Commission;

- (c) a judge of the Supreme Court, appointed by the Lieutenant Governor in Council;
- (d) a senior official in the public service of Ontario who is or has been a member of a tribunal to whose proceedings Part I applies, appointed by the Lieutenant Governor in Council:
- (e) a member of the Law Society of Upper Canada, appointed by the Lieutenant Governor in Council: and
- (f) a representative of the public who is not a member of the public service of Ontario, appointed by the Lieutenant Governor in Council.
- (2) A majority of the members of the Committee may Quorum exercise all the powers of the Committee.
 - **27.** It is the duty of the Committee,

Duties

- (a) to maintain under continuous review the practice and procedure in proceedings to which Part I applies;
- (b) to maintain under continuous review the practice and procedure, before,
 - (i) tribunals upon which a statutory power of decision is conferred by or under an Act of the Legislature but which is not required under such Act or otherwise by law to afford to the parties to the proceedings an opportunity for a hearing before making a decision: and
 - (ii) a body coming within clause e or g of subsection 2 of section 3.
- 28. No rules of procedure to govern the proceedings of a Rules to be tribunal to which Part I applies shall be made or approved after after except after consultation with the Committee.

with Committee

- 29. The Committee may require a tribunal to which Part I Report of applies or coming within clause b of section 27 to report to Committee the Committee the rules of procedure governing its proceedings or, where there are no such rules, information as to the procedure followed by it and to formulate and report to the Committee rules to govern its proceedings.
- **30.** Where power is conferred to make rules of procedure powers of governing the proceedings of a tribunal to which Part I ap-tribunals to make rules plies, such power shall include power,

- (a) notwithstanding section 15, to require that findings of fact of the tribunal be based exclusively on evidence admissible under the law of evidence and on matters that may be judicially noticed or of which notice may be taken under section 16 or on evidence admissible under section 15 and on matters of which notice may be taken under section 16;
- (b) to require the oral evidence admitted at a hearing before the tribunal to be recorded;
- (c) to limit investigation or consultation concerning the subject-matter of any proceedings by members of the tribunal prior to the hearing;
- (d) to require that any member of the tribunal participating in a decision of the tribunal shall have been present throughout the hearing.

Secretary to Committee **31.** The Minister of Justice and Attorney General may assign one or more members of the staff of the Department of Justice to be secretary or secretaries of the committee and the committee may prescribe the duties of the secretary or secretaries.

Conflict

32. Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply notwithstanding anything in this Act, the provisions of this Act and of rules made under section 33 prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith.

Rules respecting publication of decisions **33.** Subject to the approval of the Lieutenant Governor in Council, the Committee may make rules respecting the reporting, editing and publication of decisions of the tribunals to which Part I applies.

Annual report

34. The Committee shall report annually to the Minister of Justice and Attorney General.

PART III MISCELLANEOUS

Application of Part I

35. Part I applies only to proceedings commenced after this Act comes into force.

Commencement of Act **36.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

37. This Act may be cited as The Statutory Powers Procedure Act, 1971.

FORM 1

(Section 12 (2))

(Name of Act under which proceedings arise)

SUMMONS TO A WITNESS BEFORE(name of tribunal)
RE:
TO:
You are hereby summoned and required to attend before the
(name of tribunal)
at a hearing to be held
atofof.
onday, theday of
19, at the hour ofo'clock in thenoon local time) and so from day to day until the hearing is concluded or the tribuna otherwise orders, to give evidence on oath touching the matters in question in the proceedings and to bring with you and produce at such time and place
A
Dated thisday of
(name of tribunal)
Member of Tribunal

NOTE:

You are entitled to be paid the like personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.

If you fail to attend and give evidence at the hearing, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court in like manner as if for contempt of that court for disobedience to a subpoena.

FORM 2

(Section 12 (3))

BENCH WARRANT

PROVINCE OF ONTARIO

TO A.B., Sheriff, etc.

19

THESE are therefore to command you to take the said *C.D.* to bring and have him before the said tribunal at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the proceedings before the said tribunal, and that you detain him in your custody until he has given his evidence or until the said sittings have ended or until other orders may be made concerning him.

	GIV	EN	UNI	ER	MY	HAND	this	 	day	of.		 	٠٠,
9.	,	at											
								 			udge		



An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

1st Reading June 4th, 1971

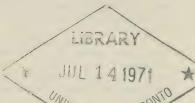
2nd Reading

3rd Reading

THE HON. W. G. DAVIS
Prime Minister

(Government Bill)

4TH Session, 28TH LEGISLATURE, ONTARIO 20 ELIZABETH II, 1971



An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

THE HON. W. G. DAVIS
Prime Minister

(Reprinted as amended by the Legal Administration Committee)

EXPLANATORY NOTES

General

The purpose of this Bill is to eliminate uncertainties in the present law as to the procedure and as to the powers of tribunals exercising statutory powers of decision affecting the rights of individuals.

It will be recalled that at the 1968-69 Session a Bill (Bill 130) with the same object as this Bill was introduced but not proceeded with in the expectation that its provisions would be improved as the result of intensive study by the Bench and Bar. As a result, many helpful comments and criticisms were made and the Bill has been extensively reviewed and revised.

Procedure for tribunals

Under present law where a statutory power of decision is conferred on a tribunal, although no procedure is laid down in the statute, the courts may by interpretation, presume that the tribunal is not to exercise the power arbitrarily or capriciously. They will apply the procedural "Rules of natural justice" to require the tribunal to follow a fair procedure. This presumption does not apply to all statutory powers of decision.

The requirements of the rules of natural justice are not uniform in application and may be held to vary from statute to statute.

Two uncertainties as to the procedure to be followed by a tribunal exist under the present law.

- 1. Do the "Rules of natural justice" apply so that the tribunal is required to follow a fair procedure? This question is often related to the question whether the power conferred on the tribunal is "judicial or quasi judicial" or "purely administrative". These terms are of uncertain application. The Bill is aimed at limiting this uncertainty and avoiding this perplexing language by providing minimum rules of procedure that will apply in all cases where a statute conferring a power of decision requires that a hearing be held before the decision is made. The proposal is that in future, statutes will expressly provide that a hearing is or is not required.
- 2. When the rules of natural justice apply, what is the required procedure? The statute is aimed at removing this uncertainty by providing standard minimum rules of a fair procedure which will automatically apply to all tribunals required to hold hearings.

Powers of tribunals

The powers of tribunals under the present law vary with each statute. Sometimes very broad powers e.g., "the powers of a civil court" are conferred on a tribunal. The same effect is achieved by conferring the powers that may be conferred on a commissioner under *The Public Inquiries Act*. Such powers include amongst other things the power to issue a bench warrant for the arrest and detention of a witness and power to direct imprisonment of persons for contempt. A tribunal may consist of one or more persons without previous experience in the exercise of such wide powers. The Bill proposes standard powers for compelling attendance of witnesses or production of evidence that may be exercised by a tribunal with suitable judicial controls to limit possible arbitrary action.

The general nature of the matters provided for in the Bill, with a reference to the section number of the Bill and the corresponding recommendation in McRuer Report No. 1, are set out below.

1. The Act will apply to proceedings by a tribunal in the exercise of a statutory power of decision where a hearing is required. Exceptions to the application of the Act are enumerated to exclude tribunals that are required to hold a hearing but that already have a proper procedure or to eliminate doubt.

Section 3 (Recommendation 31(a))

Notwithstanding the requirement of a hearing, informal settlements may be arrived at by agreement or consent without following the minimum rules of procedure, or a party may otherwise waive his rights under the rules.

Section 4 (Recommendation 62)

- 3. To eliminate uncertainty it is proposed that the parties to a proceeding before a tribunal should be specified in the statute setting it up. Where they are not specified the present law is retained.

 Section 5
- 4. Reasonable notice of a hearing is required to be given to the parties. The hearing may proceed if a party does not attend after being given notice.

Sections 6 and 7 (Recommendation 33)

- Reasonable notice of the case to be met is to be given to parties whose rights may be specifically affected.
 Section 8 (Recommendation 34)
- 6. Hearings are in public except in specified circumstances.

 Section 9 (Recommendation 37 in part)

Hearings before self governing bodies are not dealt with as it is felt that they should be dealt with specifically in the statute establishing the self governing body.

7. Parties are entitled to counsel and to examine and cross-examine witnesses.

Section 10 (Recommendations 40 and 42)

- 8. Witnesses are given a new right to be advised by counsel.
 Section 11 (Recommendation 41)
- Tribunals are empowered to summon witnesses and require production of documents. Such summons may be enforced on application to the High Court of justice.

Sections 12 and 13 (Recommendations 36 and 38)

- 10. A witness is given automatic protection against self incrimination. Section 14
- 11. Evidence at a hearing before a tribunal is not confined to sworn evidence or evidence admissible in the courts. The law of evidentiary privilege is retained.

Section 15 (Recommendations 39 and 43)

12. A tribunal is permitted to take official notice in reaching its decision of generally recognized technical or scientific facts or opinions within its specialized knowledge.

Section 16 (Recommendation 44 in part)

It was felt that it is not practicable to require an expert tribunal to give formal notice of everything it may take notice of although much of it may be well known to the parties or be inconsequential.

13. The decision of a tribunal is required to be in writing and sent to the parties. Reasons are to be given if requested. Sections 17 and 18 (Recommendations 45 and 47 in part)

The wide variety of and detailed provisions concerning appeals from certain tribunals render it impracticable to make advice as to appeals a universal requirement in notices of decision as recommended. This should be dealt with specifically in the rules of procedure for each tribunal.

14. A decision of a tribunal is enforceable in the name of the tribunal after filing in the Supreme Court, in the same manner as an order of the court.

Section 19 (Recommendation 46)

- A tribunal is required to keep a record of its proceedings.
 Section 20 (Recommendation 48)
- 16. A tribunal may adjourn its hearings from time to time. Section 21 (Recommendation 35)
- 17. A tribunal is given power to administer oaths.

 Section 22 (Recommendation 39)
- 18. Special provision is made for the giving of notice of hearings and decisions where members of the public may be parties. Section 24
- 19. Where an appeal is taken from a decision of a tribunal it operates as a stay of the decision of the tribunal unless otherwise ordered. Section 25
- A Statutory Powers Rules Committee is established.
 Sections 26 to 31 (Recommendations 31a, 56, 58, 59 and 60 in part)

The Committee is not given power to make rules of procedure for all tribunals. It was felt that if the statute establishing a tribunal authorized the making of rules of procedure for the tribunal and this Act empowered the Statutory Powers Rules Committee to make rules of procedure for the tribunal, confusion and conflict would result. However, the Bill provides that no rules of procedure for a tribunal may be made until after consultation with the Committee. The establishment of proper rules of procedure will be ensured by the requirement of consultation.

BILL 53 1971

An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) "Committee" means the Statutory Powers Procedure Rules Committee established by this Act;
- (b) "licence" includes any permit, certificate, approval, registration or similar form of permission required by law;
- (c) "municipality" has the same meaning as in The R.S.O. 1960, Department of Municipal Affairs Act, and includes a district, metropolitan and regional municipality and their local boards:
- (d) "statutory power of decision" means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,
 - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not;
- (e) "tribunal" means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute.

Meaning of "person" extended

(2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to proceedings in the exercise of a statutory power of decision under the statute conferring the power, shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties.

PART I

MINIMUM RULES FOR PROCEEDINGS OF CERTAIN TRIBUNALS

Interpre-

- 2. In this Part,
 - (a) "hearing" means a hearing in any proceedings;
 - (b) "proceedings" means proceedings to which this Part applies.

Application of Part I

3.—(1) Subject to subsection 2, this Part applies to proceedings by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceedings an opportunity for a hearing before making a decision.

Where Part I does not apply

- (2) This Part does not apply to proceedings,
 - (a) before the Assembly or any committee of the Assembly;
 - (b) in or before,
 - (i) the Supreme Court,
 - (ii) a county or district court,
 - (iii) a surrogate court,

1968, c. 103

- (iv) a provincial court established under *The* Provincial Courts Act, 1968,
- (v) a small claims court,
- (vi) a justice of the peace,

R.S.O. 1960, c. 65

- (vii) an election court under *The Controverted Elections Act*;
- (c) to which the Rules of Practice and Procedure of the Supreme Court apply;

R.S.O. 1960, cc. 18, 202 (d) before an arbitrator to which The Arbitrations Act or The Labour Relations Act applies;

- (e) at a coroner's inquest;
- (f) of a commission appointed under The Public In-1971, c.... quiries Act, 1971;
- (g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he may have power to make;
- (h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned.
- **4.** Notwithstanding anything in this Act and unless other-Disposition wise provided in the Act under which the proceedings arise, proceedings or the tribunal otherwise directs, any proceedings may be hearing disposed of by,
 - (a) agreement;
 - (b) consent order; or
 - (c) a decision of the tribunal given,
 - (i) without a hearing, or
 - (ii) without compliance with any other requirement of this Act,

where the parties have waived such hearing or compliance.

- **5.** The parties to any proceedings shall be the persons Parties specified as parties by or under the statute under which the proceedings arise or, if not so specified, persons entitled by law to be parties to the proceedings.
- **6.**—(1) The parties to any proceedings shall be given Notice of reasonable notice of the hearing by the tribunal.
 - (2) A notice of a hearing shall include,

Idem

- (a) a statement of the time, place and purpose of the hearing;
- (b) a reference to the statutory authority under which the hearing will be held; and

(c) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in his absence and he will not be entitled to any further notice in the proceedings.

Effect of nonattendance at hearing after due notice 7. Where notice of a hearing has been given to a party to any proceedings in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in his absence and he is not entitled to any further notice in the proceedings.

Where character, etc., of a party is in issue

8. Where the good character, propriety of conduct or competence of a party is an issue in any proceedings, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

Hearings to be public, exceptions

- **9.**—(1) A hearing shall be open to the public except where the tribunal is of the opinion that,
 - (a) matters involving public security may be disclosed; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing concerning any such matters in camera.

Maintenance of order at hearings

(2) A tribunal may make such orders or give such directions at a hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.

Rights of parties to counsel, to examine witnesses, etc., at hearings

- 10. A party to proceedings may at a hearing,
 - (a) be represented by counsel or an agent;
 - (b) call and examine witnesses and present his arguments and submissions;

- (c) conduct cross-examinations of witnesses at a hearing reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence.
- 11.—(1) A witness at a hearing is entitled to be advised by Rights of his counsel or agent as to his rights but such counsel or agent to counsel may take no other part in the hearing without leave of the tribunal.
- (2) Where a hearing is *in camera*, a counsel or agent for a ^{Idem} witness is not entitled to be present except when that witness is giving evidence.
- **12.**—(1) A tribunal may require any person, including a Summonses party, by summons,
 - (a) to give evidence on oath or affirmation at a hearing;
 - (b) to produce in evidence at a hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceedings and admissible at a hearing.

- (2) A summons issued under subsection 1 shall be in Form Form and service of summonses
 - (a) where the tribunal consists of one person, shall be signed by him; or
 - (b) where the tribunal consists of more than one person, shall be signed by the chairman of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal; and
 - (c) shall be served personally on the person summoned who shall be paid the like fees and allowances for his attendance as a witness before the tribunal as are paid for the attendance of a witness summoned to attend before the Supreme Court.
- (3) Upon proof to the satisfaction of a judge of the Supreme Bench Court of the service of a summons under this section upon a person and that,
 - (a) such person has failed to attend or to remain in attendance at a hearing in accordance with the requirements of the summons;

- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and
- (c) his presence is material to the ends of justice,

the judge may, by his warrant in Form 2, directed to any sheriff, police officer or constable, cause such witness to be apprehended anywhere within Ontario and forthwith to be brought before the tribunal and to be detained in custody as the judge may order until his presence as a witness before the tribunal is no longer required, or, in the discretion of the judge, to be released on a recognizance (with or without sureties) conditioned for appearance to give evidence.

Proof of service (4) Service of a summons and payment of tender of fees or allowance may be proved by affidavit in an application under subsection 3.

Certificate of facts

(5) Where an application under subsection 3 is made on behalf of a tribunal, the person constituting the tribunal, or where the tribunal consists of two or more persons, the chairman thereof may certify to the judge the facts relied on to establish that the presence of the person summoned is material to the ends of justice and such certificate may be accepted by the judge as proof of such facts.

Idem

(6) Where an application under subsection 3 is made by a party to the proceedings, proof of the facts relied on to establish that the presence of the person summoned is material to the ends of justice may be by affidavit of such party.

Contempt

- 13. Where any person without lawful excuse,
 - (a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or
 - (b) being in attendance as a witness at a hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his power or control legally required by the tribunal to be produced by him or to answer any question to which the tribunal may legally require an answer; or
 - (c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on application of a party to the proceedings, state a case to the Divisional Court setting out the facts and that court may, on application on behalf of and in the name of the tribunal or by such party,

inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

14.—(1) A witness at a hearing shall be deemed to have Protection objected to answer any question asked him upon the ground witnesses that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence.

(2) A witness shall be informed by the tribunal of his right be object to object to answer any question under section 5 of the under R.S.C. 1952, Canada Evidence Act.

15.—(1) Subject to subsections 2 and 3, a tribunal may What is admissible admit as evidence at a hearing, whether or not given or in evidence at a hearing proven under oath or affirmation or admissible as evidence in a court.

- (a) any oral testimony; and
- (b) any document or other thing,

relevant to the subject matter of the proceedings and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

(2) Nothing is admissible in evidence at a hearing,

What is inadmissible in evidence

- (a) that would be inadmissible in a court by reason of at a hearing any privilege under the law of evidence; or
- (b) that is inadmissible by the statute under which the proceedings arise or any other statute.

(3) Nothing in subsection 1 overrides the provisions of any Conflicts Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings.

(4) Where a tribunal is satisfied as to their authenticity, Copies a copy of a document or other thing may be admitted as evidence at a hearing.

(5) Where a document has been filed in evidence at a hear-Photoing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified (6) A document purporting to be a copy of a document copy admissible in filed in evidence at a hearing, certified to be a true copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document.

Notice of facts and opinions

- **16.** A tribunal may, in making its decision in any proceedings,
 - (a) take notice of facts that may be judicially noticed; and
 - (b) take notice of any generally recognized scientific or technical facts, information, or opinions within its scientific or specialized knowledge.

Decision

17. A tribunal shall give its final decision and order, if any, in any proceedings in writing and shall give reasons in writing therefor if requested by a party.

Notice of decision

18. A tribunal shall send by first class mail addressed to the parties to any proceedings who took part in the hearing, at their addresses last known to the tribunal, a copy of its final decision and order, if any, in the proceedings, together with the reasons therefor, where reasons have been given, and each party shall be deemed to have received a copy of the decision or order on the fifth day after the day of mailing unless the party did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the copy of the decision or order until a later date.

Enforcement of decision

19.—(1) A certified copy of a final decision and order, if any, of a tribunal in any proceedings may be filed in the office of the Registrar of the Supreme Court by the tribunal or by a party and, if it is for the payment of money, it may be enforced at the instance of the tribunal or of such party in the name of the tribunal in the same manner as a judgment of that court, and in all other cases by an application by the tribunal or by such party to the court for such order as the court may consider just.

Idem

- (2) Where a tribunal having power to do so makes an order or decision rescinding or varying an order or decision previously made by it that has been filed under subsection 1, upon filing in accordance with subsection 1 the order or decision rescinding or varying the order or decision previously made,
 - (a) if the order or decision rescinds the order or decision previously made, the order or decision previously made ceases to have effect for the purposes of subsection 1; or

- (b) if the order or decision varies the order or decision previously made, the order or decision previously made as so varied may be enforced in a like manner as an order or decision filed under subsection 1.
- **20.** A tribunal shall compile a record of any proceedings Record of in which a hearing has been held which shall include,
 - (a) any application, complaint, reference or other document, if any, by which the proceedings were commenced;
 - (b) the notice of any hearing;
 - (c) any intermediate orders made by the tribunal;
 - (d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceedings;
 - (e) the transcript, if any, of the oral evidence given at the hearing; and
 - (f) the decision of the tribunal and the reasons therefor, where reasons have been given.
- **21.** A hearing may be adjourned from time to time by a Adjourntribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held.
- **22.** A member of a tribunal has power to administer oaths Administration of and affirmations for the purpose of any of its proceedings and oaths the tribunal may require evidence before it to be given under oath or affirmation.
- **23.**—(1) A tribunal may make such orders or give such Abuse of directions in proceedings before it as it considers proper to prevent abuse of its processes.
- (2) A tribunal may reasonably limit further cross-examina-Limitation on cross-tion of a witness where it is satisfied that the cross-examination examination of the witness has been sufficient to disclose fully and fairly the facts in relation to which he has given evidence.
- (3) A tribunal may exclude from a hearing anyone, other Exclusion than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly

to represent or to advise the party or witness or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser.

Notice, etc.

- **24.**—(1) Where a tribunal is of opinion that because the parties to any proceedings before it are so numerous or for any other reason, it is impracticable,
 - (a) to give notice of the hearing; or
 - (b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents of notice (2) A notice of a decision given by a tribunal under clause b of subsection 1 shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained.

Appeal operates as stay, exception

25.—(1) Unless it is expressly provided to the contrary in the Act under which the proceedings arise, an appeal from a decision of a tribunal to a court or other appellate tribunal operates as a stay in the matter except where the tribunal or the court or other body to which the appeal is taken otherwise orders.

Idem 1971, c. ... (2) An application for judicial review under *The Judicia-Review Procedure Act*, 1971, or the bringing of proceedings specified in subsection 1 of section 2 of that Act is not an appeal within the meaning of subsection 1.

PART II

STATUTORY POWERS PROCEDURE RULES COMMITTEE

Rules Committee, composition

- **26.**—(1) There shall be a committee to be known as the Statutory Powers Procedure Rules Committee composed of,
 - (a) the Deputy Minister of Justice and Deputy Attorney General who shall be chairman of the Committee, but in his absence or at his request his nominee shall act in his place;
 - (b) the chairman of the Ontario Law Reform Commission;

- (c) a judge of the Supreme Court, appointed by the Lieutenant Governor in Council:
- (d) a senior official in the public service of Ontario who is or has been a member of a tribunal to whose proceedings Part I applies, appointed by the Lieutenant Governor in Council:
- (e) a member of the Law Society of Upper Canada, appointed by the Lieutenant Governor in Council;
- (f) a representative of the public who is not a member of the public service of Ontario, appointed by the Lieutenant Governor in Council; and
- (g) a professor of administrative law on the law faculty of a university in Ontario, appointed by the Lieutenant Governor in Council.
- (2) A majority of the members of the Committee may Quorum exercise all the powers of the Committee.
 - **27.** It is the duty of the Committee.

Duties

- (a) to maintain under continuous review the practice and procedure in proceedings to which Part I applies;
- (b) to maintain under continuous review the practice and procedure, before,
 - (i) tribunals upon which a statutory power of decision is conferred by or under an Act of the Legislature but which is not required under such Act or otherwise by law to afford to the parties to the proceedings an opportunity for a hearing before making a decision; and
 - (ii) a body coming within clause e or g of subsection 2 of section 3.
- 28. No rules of procedure to govern the proceedings of a Rules to be made only tribunal to which Part I applies shall be made or approved after consultation except after consultation with the Committee.

Committee

- 29. The Committee may require a tribunal to which Part I Report of applies or coming within clause b of section 27 to report to Committee the Committee the rules of procedure governing its proceedings or, where there are no such rules, information as to the procedure followed by it and to formulate and report to the Committee rules to govern its proceedings.
- **30.** Where power is conferred to make rules of procedure Additional governing the proceedings of a tribunal to which Part I ap-make rules plies, such power shall include power.

- (a) notwithstanding section 15, to require that findings of fact of the tribunal be based exclusively on evidence admissible under the law of evidence and on matters that may be judicially noticed or of which notice may be taken under section 16 or on evidence admissible under section 15 and on matters of which notice may be taken under section 16;
- (b) to require the oral evidence admitted at a hearing before the tribunal to be recorded;
- (c) to limit investigation or consultation concerning the subject-matter of any proceedings by members of the tribunal prior to the hearing;
- (d) to require that any member of the tribunal participating in a decision of the tribunal shall have been present throughout the hearing.

Secretary to Committee **31.** The Minister of Justice and Attorney General may assign one or more members of the staff of the Department of Justice to be secretary or secretaries of the committee and the committee may prescribe the duties of the secretary or secretaries.

Conflict

32. Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply notwithstanding anything in this Act, the provisions of this Act and of rules made under section 33 prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith.

Rules respecting publication of decisions **33.** Subject to the approval of the Lieutenant Governor in Council, the Committee may make rules respecting the reporting, editing and publication of decisions of the tribunals to which Part I applies.

Annual report

34. The Committee shall report annually to the Minister of Justice and Attorney General.

PART III MISCELLANEOUS

Application of Part I

35. Part I applies only to proceedings commenced after this Act comes into force.

Transition periods

36.—(1) The Lieutenant Governor in Council may by order exempt the proceedings of any tribunal from the application of Part I or of any provision thereof for any period stated in the order, but no such period shall extend beyond one year after this Act comes into force.

- (2) An order made under subsection 1 shall be tabled in Tabling the Assembly within fifteen days after it is made or if the Assembly is not then sitting within fifteen days after the commencement of the next following Session.
- **37.** This Act comes into force on a day to be named by the Commence-Lieutenant Governor by his proclamation.
- 38. This Act may be cited as The Statutory Powers Pro-Short title cedure Act, 1971.

FORM 1

(Section 12 (2))

(Name of Act under which proceedings arise)

SUMMONS TO A WITNESS BEFORE......(name of tribunal)......

RE:
TO:
You are hereby summoned and required to attend before the
(name of tribunal)
at a hearing to be held
atofof
onday, theday of
19, at the hour ofo'clock in thenoon local time), and so from day to day until the hearing is concluded or the tribunal otherwise orders, to give evidence on oath touching the matters in question in the proceedings and to bring with you and produce at such time and place
Dated this, 19
(name of tribunal)
Member of Tribunal

NOTE:

You are entitled to be paid the <u>same</u> personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.

If you fail to attend and give evidence at the hearing, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court in the same manner as if for contempt of that court for disobedience to a subpoena.

FORM 2

(Section 12 (3))

BENCH WARRANT

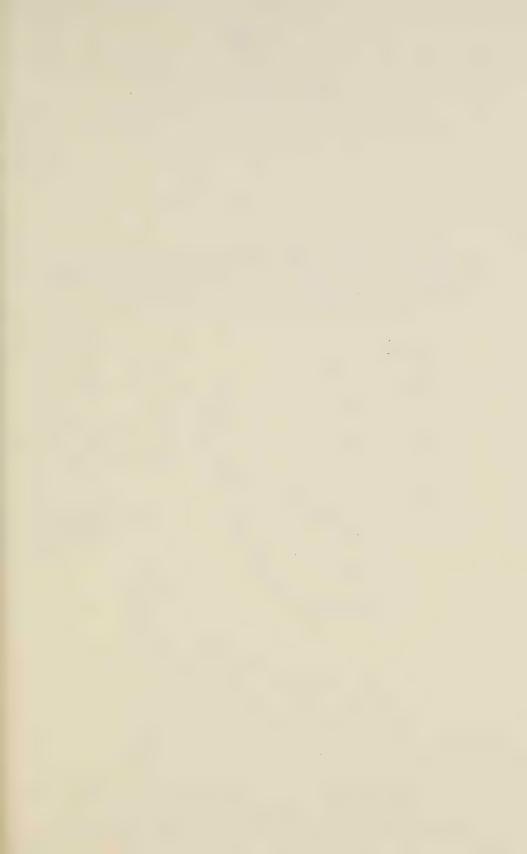
PROVINCE OF ONTARIO

TO A.B., Sheriff, etc.

WHEREAS proof has been made before me that C.D. was duly summoned to appear before the $(name\ of\ tribunal)...$ at the hearing of the said tribunal at Toronto $(or\ as\ the\ case\ may\ be)$ on the.........day of.........., 19...; that the presence of the said C.D. is material to the ends of justice, and that the said C.D. has failed to attend in accordance with the requirements of the summons.

THESE are therefore to command you to take the said C.D. to bring and have him before the said tribunal at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the proceedings before the said tribunal, and that you detain him in your custody until he has given his evidence or until the said sittings have ended or until other orders may be made concerning him.

	GIV	EN	UNI	DER	MY	HAN	ID	this	 da	y o	f	 	 ,
19.	,	at											
									 		 Ind		



An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

1st Reading
June 4th, 1971

2nd Reading
June 24th, 1971

3rd Reading

THE HON. W. G. DAVIS
Prime Minister

(Reprinted as amended by the Legal Administration Committee)

4th Session, 28th Legislature, Ontario 20 Elizabeth II, 1971

An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

THE HON. W. G. DAVIS
Prime Minister

TORONTO



BILL 53 1971

An Act to provide Procedures governing the Exercise of Statutory Power granted to Tribunals by the Legislature wherein the Rights, Duties or Privileges of Persons are to be decided at or following a Hearing

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-

- (a) "Committee" means the Statutory Powers Procedure Rules Committee established by this Act;
- (b) "licence" includes any permit, certificate, approval, registration or similar form of permission required by law;
- (c) "municipality" has the same meaning as in The R.S.O. 1960, Department of Municipal Affairs Act, and includes a district, metropolitan and regional municipality and their local boards:
- (d) "statutory power of decision" means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,
 - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not;
- (e) "tribunal" means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute.

Meaning of "person" extended (2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to proceedings in the exercise of a statutory power of decision under the statute conferring the power, shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties.

PART I

MINIMUM RULES FOR PROCEEDINGS OF CERTAIN TRIBUNALS

Interpretation

- 2. In this Part,
 - (a) "hearing" means a hearing in any proceedings;
 - (b) "proceedings" means proceedings to which this Part applies.

Application of Part I

3.—(1) Subject to subsection 2, this Part applies to proceedings by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceedings an opportunity for a hearing before making a decision.

Where Part I does not apply

- (2) This Part does not apply to proceedings,
 - (a) before the Assembly or any committee of the Assembly;
 - (b) in or before,
 - (i) the Supreme Court,
 - (ii) a county or district court,
 - (iii) a surrogate court,

1968, c. 103

- (iv) a provincial court established under The Provincial Courts Act, 1968,
- (v) a small claims court,
- (vi) a justice of the peace,

R.S.O. 1960, c. 65

- (vii) an election court under The Controverted Elections Act:
- (c) to which the Rules of Practice and Procedure of the Supreme Court apply;

R.S.O. 1960, ec. 18, 202 (d) before an arbitrator to which The Arbitrations Act or The Labour Relations Act applies;

- (e) at a coroner's inquest;
- (f) of a commission appointed under The Public In-1971, c.... quiries Act, 1971;
- (g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he may have power to make;
- (h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned.
- 4. Notwithstanding anything in this Act and unless other-Disposition wise provided in the Act under which the proceedings arise, proceedings or the tribunal otherwise directs, any proceedings may be hearing disposed of by,
 - (a) agreement;
 - (b) consent order; or
 - (c) a decision of the tribunal given,
 - (i) without a hearing, or
 - (ii) without compliance with any other requirement of this Act,

where the parties have waived such hearing or compliance.

- **5.** The parties to any proceedings shall be the persons Parties specified as parties by or under the statute under which the proceedings arise or, if not so specified, persons entitled by law to be parties to the proceedings.
- **6.**—(1) The parties to any proceedings shall be given Notice of reasonable notice of the hearing by the tribunal.
 - (2) A notice of a hearing shall include,

Idem

- (a) a statement of the time, place and purpose of the hearing;
- (b) a reference to the statutory authority under which the hearing will be held; and

(c) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in his absence and he will not be entitled to any further notice in the proceedings.

Effect of nonattendance at hearing after due notice **7.** Where notice of a hearing has been given to a party to any proceedings in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in his absence and he is not entitled to any further notice in the proceedings.

Where character, etc., of a party is in issue

8. Where the good character, propriety of conduct or competence of a party is an issue in any proceedings, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

Hearings to be public, exceptions

- **9.**—(1) A hearing shall be open to the public except where the tribunal is of the opinion that,
 - (a) matters involving public security may be disclosed; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing concerning any such matters in camera.

Maintenance of order at hearings

(2) A tribunal may make such orders or give such directions at a hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.

Rights of parties to counsel, to examine witnesses, etc., at hearings

- 10. A party to proceedings may at a hearing,
 - (a) be represented by counsel or an agent;
 - (b) call and examine witnesses and present his arguments and submissions;

- (c) conduct cross-examinations of witnesses at a hearing reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence.
- 11.—(1) A witness at a hearing is entitled to be advised by Rights of his counsel or agent as to his rights but such counsel or agent to counsel may take no other part in the hearing without leave of the tribunal.
- (2) Where a hearing is *in camera*, a counsel or agent for a ^{Idem} witness is not entitled to be present except when that witness is giving evidence.
- **12.**—(1) A tribunal may require any person, including a Summonses party, by summons,
 - (a) to give evidence on oath or affirmation at a hearing;and
 - (b) to produce in evidence at a hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceedings and admissible at a hearing.

- (2) A summons issued under subsection 1 shall be in Form Form and service of and,
 - (a) where the tribunal consists of one person, shall be signed by him; or
 - (b) where the tribunal consists of more than one person, shall be signed by the chairman of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal; and
 - (c) shall be served personally on the person summoned who shall be paid the like fees and allowances for his attendance as a witness before the tribunal as are paid for the attendance of a witness summoned to attend before the Supreme Court.
- (3) Upon proof to the satisfaction of a judge of the Supreme Bench warrants Court of the service of a summons under this section upon a person and that,
 - (a) such person has failed to attend or to remain in attendance at a hearing in accordance with the requirements of the summons;

- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and
- (c) his presence is material to the ends of justice,

the judge may, by his warrant in Form 2, directed to any sheriff, police officer or constable, cause such witness to be apprehended anywhere within Ontario and forthwith to be brought before the tribunal and to be detained in custody as the judge may order until his presence as a witness before the tribunal is no longer required, or, in the discretion of the judge, to be released on a recognizance (with or without sureties) conditioned for appearance to give evidence.

Proof of service (4) Service of a summons and payment of tender of fees or allowance may be proved by affidavit in an application under subsection 3.

Certificate

(5) Where an application under subsection 3 is made on behalf of a tribunal, the person constituting the tribunal, or where the tribunal consists of two or more persons, the chairman thereof may certify to the judge the facts relied on to establish that the presence of the person summoned is material to the ends of justice and such certificate may be accepted by the judge as proof of such facts.

Idem

(6) Where an application under subsection 3 is made by a party to the proceedings, proof of the facts relied on to establish that the presence of the person summoned is material to the ends of justice may be by affidavit of such party.

Contempt

- 13. Where any person without lawful excuse,
 - (a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or
 - (b) being in attendance as a witness at a hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his power or control legally required by the tribunal to be produced by him or to answer any question to which the tribunal may legally require an answer; or
 - (c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on application of a party to the proceedings, state a case to the Divisional Court setting out the facts and that court may, on application on behalf of and in the name of the tribunal or by such party,

inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court.

- 14.—(1) A witness at a hearing shall be deemed to have Protection objected to answer any question asked him upon the ground witnesses that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence.
- (2) A witness shall be informed by the tribunal of his right be object to object to answer any question under section 5 of the under R.S.C. 1952, Canada Evidence Act.

- 15.—(1) Subject to subsections 2 and 3, a tribunal may What is admissible admit as evidence at a hearing, whether or not given or in evidence at a hearing proven under oath or affirmation or admissible as evidence in a court,
 - (a) any oral testimony; and
 - (b) any document or other thing,

relevant to the subject matter of the proceedings and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

(2) Nothing is admissible in evidence at a hearing,

What is inadmissible in evidence

- (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or
- (b) that is inadmissible by the statute under which the proceedings arise or any other statute.
- (3) Nothing in subsection 1 overrides the provisions of any Conflicts Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings.

- (4) Where a tribunal is satisfied as to their authenticity, Copies a copy of a document or other thing may be admitted as evidence at a hearing.
- (5) Where a document has been filed in evidence at a hear-Photoing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified (6) A document purporting to be a copy of a document copy admissible in filed in evidence at a hearing, certified to be a true copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document.

Notice of facts and opinions

- **16.** A tribunal may, in making its decision in any proceedings,
 - (a) take notice of facts that may be judicially noticed; and
 - (b) take notice of any generally recognized scientific or technical facts, information, or opinions within its scientific or specialized knowledge.

Decision

17. A tribunal shall give its final decision and order, if any, in any proceedings in writing and shall give reasons in writing therefor if requested by a party.

Notice of decision

18. A tribunal shall send by first class mail addressed to the parties to any proceedings who took part in the hearing, at their addresses last known to the tribunal, a copy of its final decision and order, if any, in the proceedings, together with the reasons therefor, where reasons have been given, and each party shall be deemed to have received a copy of the decision or order on the fifth day after the day of mailing unless the party did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the copy of the decision or order until a later date.

Enforcement of decision

19.—(1) A certified copy of a final decision and order, if any, of a tribunal in any proceedings may be filed in the office of the Registrar of the Supreme Court by the tribunal or by a party and, if it is for the payment of money, it may be enforced at the instance of the tribunal or of such party in the name of the tribunal in the same manner as a judgment of that court, and in all other cases by an application by the tribunal or by such party to the court for such order as the court may consider just.

Idem

- (2) Where a tribunal having power to do so makes an order or decision rescinding or varying an order or decision previously made by it that has been filed under subsection 1, upon filing in accordance with subsection 1 the order or decision rescinding or varying the order or decision previously made,
 - (a) if the order or decision rescinds the order or decision previously made, the order or decision previously made ceases to have effect for the purposes of subsection 1; or

- (b) if the order or decision varies the order or decision previously made, the order or decision previously made as so varied may be enforced in a like manner as an order or decision filed under subsection 1.
- **20.** A tribunal shall compile a record of any proceedings Record of in which a hearing has been held which shall include,
 - (a) any application, complaint, reference or other document, if any, by which the proceedings were commenced;
 - (b) the notice of any hearing;
 - (c) any intermediate orders made by the tribunal;
 - (d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceedings;
 - (e) the transcript, if any, of the oral evidence given at the hearing; and
 - (f) the decision of the tribunal and the reasons therefor, where reasons have been given.
- **21.** A hearing may be adjourned from time to time by a Adjourntribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held.
- **22.** A member of a tribunal has power to administer oaths Administration of and affirmations for the purpose of any of its proceedings and oaths the tribunal may require evidence before it to be given under oath or affirmation.
- **23.**—(1) A tribunal may make such orders or give such Abuse of directions in proceedings before it as it considers proper to prevent abuse of its processes.
- (2) A tribunal may reasonably limit further cross-examina-Limitation on cross-tion of a witness where it is satisfied that the cross-examination examination of the witness has been sufficient to disclose fully and fairly the facts in relation to which he has given evidence.
- (3) A tribunal may exclude from a hearing anyone, other Exclusion than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly

to represent or to advise the party or witness or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser.

Notice, etc. **24.**—(1) Where a tribunal is of opinion that because the parties to any proceedings before it are so numerous or for any other reason, it is impracticable,

- (a) to give notice of the hearing; or
- (b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents of notice (2) A notice of a decision given by a tribunal under clause b of subsection 1 shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained.

Appeal operates as stay, exception

25.—(1) Unless it is expressly provided to the contrary in the Act under which the proceedings arise, an appeal from a decision of a tribunal to a court or other appellate tribunal operates as a stay in the matter except where the tribunal or the court or other body to which the appeal is taken otherwise orders.

Idem 1971, c. . . . (2) An application for judicial review under *The Judicia-Review Procedure Act*, 1971, or the bringing of proceedings specified in subsection 1 of section 2 of that Act is not an appeal within the meaning of subsection 1.

PART II

STATUTORY POWERS PROCEDURE RULES COMMITTEE

Rules Committee, composition

26.—(1) There shall be a committee to be known as the Statutory Powers Procedure Rules Committee composed of,

- (a) the Deputy Minister of Justice and Deputy Attorney General who shall be chairman of the Committee, but in his absence or at his request his nominee shall act in his place;
- (b) the chairman of the Ontario Law Reform Commission;

- (c) a judge of the Supreme Court, appointed by the Lieutenant Governor in Council;
- (d) a senior official in the public service of Ontario who is or has been a member of a tribunal to whose proceedings Part I applies, appointed by the Lieutenant Governor in Council:
- (e) a member of the Law Society of Upper Canada, appointed by the Lieutenant Governor in Council;
- (f) a representative of the public who is not a member of the public service of Ontario, appointed by the Lieutenant Governor in Council; and
- (g) a professor of administrative law on the law faculty of a university in Ontario, appointed by the Lieutenant Governor in Council.
- (2) A majority of the members of the Committee may Quorum exercise all the powers of the Committee.
 - **27.** It is the duty of the Committee,

Duties

- (a) to maintain under continuous review the practice and procedure in proceedings to which Part I applies;
- (b) to maintain under continuous review the practice and procedure, before,
 - (i) tribunals upon which a statutory power of decision is conferred by or under an Act of the Legislature but which is not required under such Act or otherwise by law to afford to the parties to the proceedings an opportunity for a hearing before making a decision: and
 - (ii) a body coming within clause e or g of subsection 2 of section 3.
- 28. No rules of procedure to govern the proceedings of a Rules to be tribunal to which Part I applies shall be made or approved after after except after consultation with the Committee.

with Committee

- 29. The Committee may require a tribunal to which Part I Report of applies or coming within clause b of section 27 to report to Committee the Committee the rules of procedure governing its proceedings or, where there are no such rules, information as to the procedure followed by it and to formulate and report to the Committee rules to govern its proceedings.
- **30.** Where power is conferred to make rules of procedure Additional powers of governing the proceedings of a tribunal to which Part I ap-tribunals to plies, such power shall include power,

- (a) notwithstanding section 15, to require that findings of fact of the tribunal be based exclusively on evidence admissible under the law of evidence and on matters that may be judicially noticed or of which notice may be taken under section 16 or on evidence admissible under section 15 and on matters of which notice may be taken under section 16;
- (b) to require the oral evidence admitted at a hearing before the tribunal to be recorded;
- (c) to limit investigation or consultation concerning the subject-matter of any proceedings by members of the tribunal prior to the hearing;
- (d) to require that any member of the tribunal participating in a decision of the tribunal shall have been present throughout the hearing.

Secretary to Committee

31. The Minister of Justice and Attorney General may assign one or more members of the staff of the Department of Justice to be secretary or secretaries of the committee and the committee may prescribe the duties of the secretary or secretaries.

Conflict

32. Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply notwithstanding anything in this Act, the provisions of this Act and of rules made under section 33 prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith.

Rules respecting publication of decisions

33. Subject to the approval of the Lieutenant Governor in Council, the Committee may make rules respecting the reporting, editing and publication of decisions of the tribunals to which Part I applies.

Annual report

34. The Committee shall report annually to the Minister of Justice and Attorney General.

PART III MISCELLANEOUS

Application of Part I

35. Part I applies only to proceedings commenced after this Act comes into force.

Transition periods

36.—(1) The Lieutenant Governor in Council may by order exempt the proceedings of any tribunal from the application of Part I or of any provision thereof for any period stated in the order, but no such period shall extend beyond one year after this Act comes into force.

- (2) An order made under subsection 1 shall be tabled in Tabling the Assembly within fifteen days after it is made or if the Assembly is not then sitting within fifteen days after the commencement of the next following Session.
- **37.** This Act comes into force on a day to be named by the Commence-Lieutenant Governor by his proclamation.
- **38.** This Act may be cited as The Statutory Powers Pro-Short title cedure Act, 1971.

FORM 1

(Section 12 (2))

(Name of Act under which proceedings arise)

CHIMIONIC TO A MITTIERS DEPOND

SUMMONS TO A WITNESS BEFORE(name of tribunal)
RE:
TO:
You are hereby summoned and required to attend before the
(name of tribunal)
at a hearing to be held
atof
onday, theday of
19, at the hour ofo'clock in thenoon local time), and so from day to day until the hearing is concluded or the tribunal otherwise orders, to give evidence on oath touching the matters in question in the proceedings and to bring with you and produce at such time and place.
Dated this, 19
(name of tribunal)
Member of Tribunal

You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.

If you fail to attend and give evidence at the hearing, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court in the same manner as if for contempt of that court for disobedience to a subpoena.

FORM 2

(Section 12 (3))

BENCH WARRANT

PROVINCE OF ONTARIO

TO A.B., Sheriff, etc.

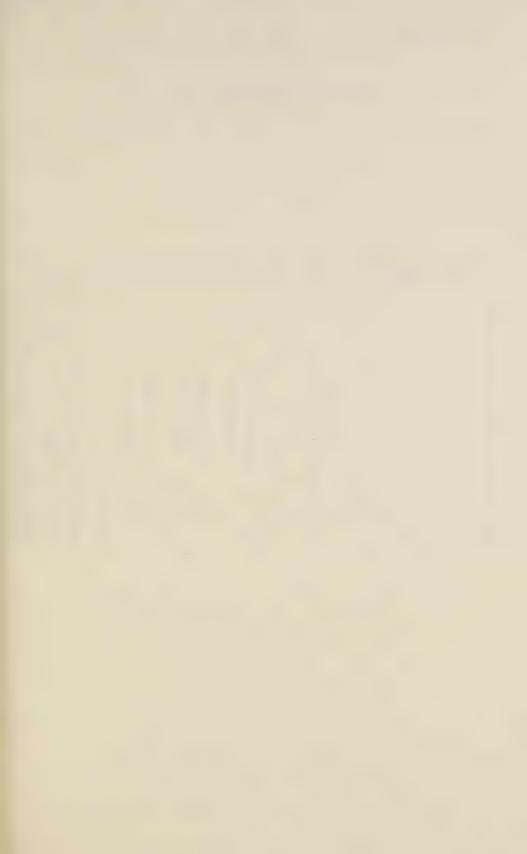
WHEREAS proof has been made before me that C.D. was duly summoned to appear before the $(name\ of\ tribunal).$ at the hearing of the said tribunal at Toronto $(or\ as\ the\ case\ may\ be)$ on the..., $day\ of.$, 19.; that the presence of the said C.D. is material to the ends of justice, and that the said C.D. has failed to attend in accordance with the requirements of the summons.

THESE are therefore to command you to take the said C.D. to bring and have him before the said tribunal at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the proceedings before the said tribunal, and that you detain him in your custody until he has given his evidence or until the said sittings have ended or until other orders may be made concerning him.

	GIV	EN	UNI	ER	MY	HAND	thisday	of	
9.	,	at.							
								Judge, S.C.O.	







are to be decided at or following a Hearing An Act to provide Procedures governing the Rights, Duties or Privileges of Persons to Tribunals by the Legislature wherein the Exercise of Statutory Power granted

June 4th, 1971 1st Reading

June 24th, 1971 2nd Reading

3rd Reading

July 13th, 1971

THE HON. W. G. DAVIS Prime Minister

4TH SESSION, 28TH LEGISLATURE, ONTARIO 20 ELIZABETH II, 1971

An Act to provide a Single Procedure for the Judicial Review of the Exercise or the Failure to Exercise a Statutory Power

> THE HON. W. G. DAVIS Prime Minister



General

The new Act is designed to provide a single simplified procedure for judicial review to supplant the present historical and highly technical procedures that must be used to obtain relief by way of mandamus, prohibition or certiorari and in proceedings by way of actions for declarations or injunctions relating to the exercise of statutory powers affecting the rights of citizens.

It will be recalled that at the 1968-69 Session a Bill (Bill 129) with the same object as this Bill was introduced but it was not proceeded with in the expectation that its provisions would be improved as the result of intensive study by the Bench and Bar. As a result, many helpful comments and criticisms were made and the Bill has been extensively reviewed and revised.

Statutory powers to which the Bill applies are powers,

- 1. to make regulations changing rights;
- 2. to make decisions changing or deciding rights;
- to order a person to do something he would not otherwise be required to do; or
- 4. to take some action that apart from the statute would be an invasion of a person's rights.

Where any such action, that is not actually authorized by the statute, is proposed or has been taken, a person whose rights are affected is entitled to be protected by the courts from such unauthorized action. The procedural steps in the courts to obtain such protection are confused and complex under the present law.

A person seeking protection against a proposed or purported unauthorized decision in the exercise of a statutory power of decision must select the correct remedy from among the several remedies referred to in the Bill depending on whether the power is judicial or quasi judicial or is purely administrative. No clear distinction between judicial and quasi judicial powers and purely administrative powers has ever been established and choice of the correct type of proceeding is often difficult. Choice of the wrong type of proceeding may result in the proceeding being dismissed on that ground although the claim is otherwise meritorious.

Proceedings to attack unauthorized regulations, orders or invasions of rights or to enforce statutory public duties do not, by themselves, present the same difficulty but are frequently interwoven with proceedings to attack powers of decision with the difficulties attendant on attacking such decisions.

With one exception, the same law is applied by the courts to afford to a citizen protection from unauthorized action or to compel performance of statutory duties in all of the present proceedings referred to in the Bill. Only the procedure differs.

The primary object of the Bill is to establish a single form of proceeding called an "Application for Judicial Review" in which any relief may be granted to which a citizen is entitled by the present law in any of the different forms of proceedings. This change does not expand the powers of the courts in supervising governmental action but is a change in procedure only.

The Bill proposes changes in the present law by extending relief granted for errors of law on the record to all applications for judicial review and by giving power to set aside findings of fact that are required to be made on evidence where there is no evidence to support them.

Particulars of the provisions of the Bill, with a reference to the section number and recommendation in the McRuer Report, No. 1, are as follows:

- 1. On an application by way of originating notice, the court may grant any relief that the applicant is entitled to in mandamus, prohibition or certiorari proceedings or in an action for a declaration or injunction in relation to the exercise of a statutory power. Section 2(1) (Recommendations 84, 85 and 99)
- 2. The power of the courts under the present law in certiorari proceedings to set aside a decision of a tribunal for an error of law on the face of the record is to be available in all applications for judicial review.

Section 2(2) (Recommendations 77 and 78)

3. Although the present rule will be continued that the courts do not review findings of fact of a tribunal to determine whether the courts agree with the interpretation of the evidence or the weight given to it by the tribunal, the courts are given power to set aside a decision where the tribunal is required to base its decision on evidence and there is no evidence in the record to support a finding of fact.

Section 2(3) (Recommendations 76b, 77 and 78)

4. Under present law in an action for a declaration, a court might declare a decision to be unauthorized. This does not technically annul the decision. Power is given under the new application for judicial review to set aside a decision where formerly only a declaration could have been made.

Section 2(4) (Recommendation 85)

5. Under present law the courts have a discretion to refuse relief in any of the proceedings mentioned where the claimant has disentitled himself to the relief by reason of misconduct or undue delay. This discretion is preserved but the present discretion to refuse relief on the grounds that the wrong proceeding has been brought is eliminated.

Section 3(5) (6)

- 6. If the grounds for attack on a decision are purely technical the court may refuse to annul the decision and may affirm it. Section 3 (Recommendation 81)
- 7. On an application for judicial review a court may make interim orders, for example, staying further proceedings pursuant to a decision, until the application is disposed of. Section 4 (Recommendation 87)
- 8. The court is given limited power to extend any time limit for the bringing of an application for a judicial review. Section 5 (Recommendation 88)
- 9. Applications for a judicial review in the normal course are to be brought in the Divisional Court but power is reserved to single judges of the High Court to grant relief in emergency cases.

Section 6 (Recommendation 102)

10. Applications made under the old form of proceedings are to be treated as applications for judicial review. There will be no need to maintain any distinction between the older form of proceedings and the new remedy.

Section 7

11. Where the exercise of a statutory power is an issue in an action for declaration or injunction, the court may direct that the issue relating to the statutory power be determined summarily by the Divisional Court. Delaying tactics by bringing actions for declarations or injunctions rather than summary proceedings by way of judicial review will be prevented.

Section 8 (Recommendations 101 and 104)

- 12. Tribunals exercising statutory powers may be made parties to the proceedings although they would otherwise not be suable entities.

 Section 9(2) (3) (Recommendation 96)
- 13. Rules of court applying to applications for judicial review may be made which would include providing for discovery or production of documents to carry out recommendations of the McRuer Report No. 1 in this respect if so desired.

Section 11 (Recommendations 91 and 95)

- 14. Privative clauses excluding review by the courts of administrative action are made to apply to the new application for judicial review.

 Section 12(1)
- 15. Habeas corpus proceedings are not affected by the new procedure although an application for judicial review may be brought to support an application for habeas corpus.

Section 12(2) (Recommendation 100)

BILL 54 1971

An Act to provide a Single Procedure for the Judicial Review of the Exercise or the Failure to Exercise a Statutory Power

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "application for judicial review" means an application under subsection 1 of section 2;
- (b) "court" means the Supreme Court;
- (c) "licence" includes any permit, certificate, approval, registration or similar form of permission required by law;
- (d) "municipality" has the same meaning as in The R.S.O. 1960, Department of Municipal Affairs Act, and includes a district, metropolitan and regional municipality and their local boards;
- (e) "party" includes a municipality, association of employers, a trade union or council of trade unions which may be a party to any of the proceedings mentioned in subsection 1 of section 2;
- (f) "statutory power of decision" means a power or right conferred by or under a statute to make a decision deciding or prescribing,
 - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not,

and includes the powers of an inferior court;

- (g) "statutory power" means a power or right conferred by or under a statute,
 - (i) to make any regulation, rule, by-law or order, or to give any other direction having force as subordinate legislation;
 - (ii) to exercise a statutory power of decision,
 - (iii) to require any person or party to do or to refrain from doing any act or thing that, but for such requirement, such person or party would not be required by law to do or to refrain from doing,
 - (iv) to do any act or thing that would, but for such power or right, be a breach of the legal rights of any person or party.

Applications for judicial review

- 2.—(1) On an application by way of originating notice, which may be styled "Notice of Application for Judicial Review", the court may, notwithstanding any right of appeal, by order grant any relief that the applicant would be entitled to in any one or more of the following:
 - 1. Proceedings by way of application for an order in the nature of mandamus, prohibition or certiorari.
 - 2. Proceedings by way of an action for a declaration or for an injunction, or both, in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power.

Error of law

(2) The power of the court to set aside a decision for error of law on the face of the record on an application for an order in the nature of certiorari is extended so as to apply on an application for judicial review in relation to any decision made in the exercise of any statutory power of decision to the extent it is not limited or precluded by the Act conferring such power of decision.

Lack of

(3) Where the findings of fact of a tribunal made in the exercise of a statutory power of decision are required by any statute or law to be based exclusively on evidence admissible before it and on facts of which it may take notice and there is no such evidence and there are no such facts to support findings of fact made by the tribunal in making a decision in

the exercise of such power, the court may set aside the decision on an application for judicial review.

- (4) Where the applicant on an application for judicial Power to review is entitled to a judgment declaring that a decision made in the exercise of a statutory power of decision is unauthorized or otherwise invalid, the court may, in the place of such declaration, set aside the decision.
- (5) Where, in any of the proceedings enumerated in sub-Power to section 1, the court had before the coming into force of this relief Act a discretion to refuse to grant relief on any grounds, the court has a like discretion on like grounds to refuse to grant any relief on an application for judicial review.
- (6) Subsection 5 does not apply to the discretion of the Where court before the coming into force of this Act to refuse to does not grant relief in any of the proceedings enumerated in subsection 1 on the ground that the relief should have been sought in other proceedings enumerated in subsection 1.
- **3.** On an application for judicial review in relation to a Defects in statutory power of decision, where the sole ground for relief technical established is a defect in form or a technical irregularity, if the court finds that no substantial wrong or miscarriage of justice has occurred, the court may refuse relief and, where the decision has already been made, may make an order validating the decision, notwithstanding such defect, to have effect from such time and on such terms as the court considers proper.
- **4.** On an application for judicial review, the court may make Interim such interim order as it considers proper pending the final determination of the application.
- 5. Notwithstanding any limitation of time for the bringing Extension of of an application for judicial review fixed by or under any bringing Act, the court may extend the time for making the application, either before or after expiration of the time so limited, on such terms as it considers proper, where it is satisfied that there are *prima facie* grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay.
- **6.**—(1) Subject to subsection 2, an application for judicial Application review shall be made to the Divisional Court.
- (2) An application for judicial review may be made to Application the High Court with leave of a judge thereof, which may be High Court granted at the hearing of the application, where it is made

to appear to the judge that the case is one of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice.

Transfer to Divisional Court (3) Where a judge refuses leave for an application under subsection 2, he may order that the application be transferred to the Divisional Court.

Appeal from judge (4) An appeal lies to the Divisional Court from a final order of the High Court disposing of an application for judicial review pursuant to leave granted under subsection 2.

Summary disposition of mandamus, etc. **7.** An application for an order in the nature of mandamus, prohibition or certiorari shall be deemed to be an application for judicial review and shall be made, treated and disposed of as if it were an application for judicial review.

Summary disposition of actions 8. Where an action for a declaration or injunction, or both, whether with or without a claim for other relief, is brought and the exercise, refusal to exercise or proposed or purported exercise of a statutory power is an issue in the action, a judge of the High Court may on the application of any party to the action, if he considers it appropriate, direct that the action be treated and disposed of summarily, in so far as it relates to the exercise, refusal to exercise or proposed or purported exercise of such power, as if it were an application for judicial review and may order that the hearing on such issue be transferred to the Divisional Court or may grant leave for it to be disposed of in accordance with subsection 2 of section 6.

Sufficiency of application 9.—(1) It is sufficient in an application for judicial review if an applicant sets out in the notice the grounds upon which he is seeking relief and the nature of the relief that he seeks without specifying the proceedings enumerated in subsection 1 of section 2 in which the claim would have been made before the coming into force of this Act.

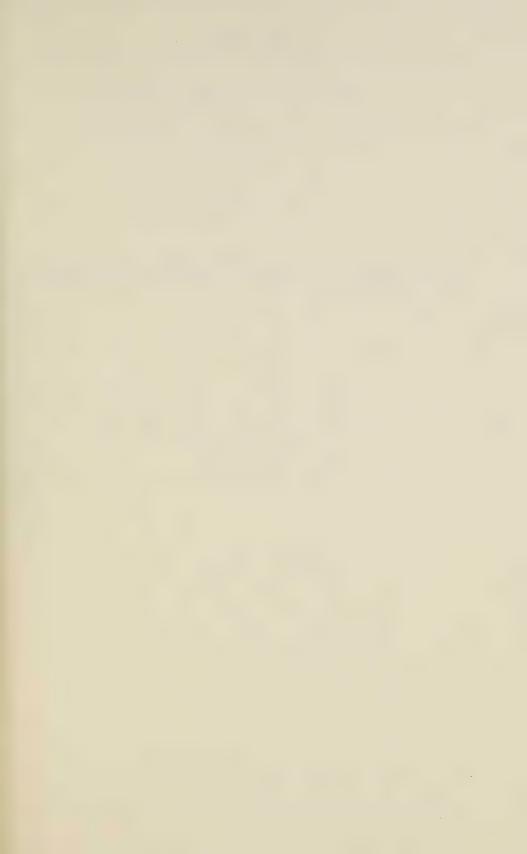
Exerciser of power must be a party (2) For the purposes of an application for judicial review in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power, the person who is authorized to exercise the power may be a party to the application.

Idem

(3) For the purposes of subsection 2, any two or more persons who, acting together, may exercise a statutory power, whether styled a board or commission or by any other collective title, shall be deemed to be a person under such collective title.

- (4) Notice of an application for judicial review shall be Notice to served upon the Minister of Justice and Attorney General who General is entitled as of right to be heard in person or by counsel on the application.
- 10. When notice of an application for judicial review of a Record to decision made in the exercise or purported exercise of a S.C.O. statutory power of decision has been served on the person making the decision, such person shall forthwith file in the court for use on the application, the record of the proceedings in which the decision was made.
- **11.** Where not inconsistent with this Act, the rules of Rules of practice and procedure of the court apply to applications for judicial review and to appeals from final orders therein, and the Rules Committee established under *The Judicature Act* R.S.O. 1960, may amend such rules or make additional rules applicable thereto.
- 12.—(1) Subject to subsection 2, where reference is made in References any other Act or in any regulation, rule or by-law to any Acts, etc. of the proceedings enumerated in subsection 1 of section 2, such reference shall, after the coming into force of this Act, be read and construed to include a reference to an application for judicial review.
- (2) Nothing in this Act affects proceedings under *The Habeas* under *Corpus Act* or the issue of a writ of certiorari thereunder or R.S.O. 1960, proceedings pursuant thereto, but an application for judicial review may be brought in aid of an application for a writ of *habeas corpus*.
- **13.** This Act comes into force on a day to be named by Commence-the Lieutenant Governor by his proclamation.
- **14.** This Act may be cited as *The Judicial Review Procedure* Short title Act, 1971.





An Act to provide a Single Procedure for the Judicial Review of the Exercise or the Failure to Exercise a Statutory Power

1st Reading June 4th, 1971

2nd Reading

3rd Reading

The Hon. W. G. Davis Prime Minister

(Government Bill)

Lublican

4th Session, 28th Legislature, Ontario 20 Elizabeth II, 1971

An Act to provide a Single Procedure for the Judicial Review of the Exercise or the Failure to Exercise a Statutory Power

THE HON. W. G. DAVIS
Prime Minister





BILL 54 1971

An Act to provide a Single Procedure for the Judicial Review of the Exercise or the Failure to Exercise a Statutory Power

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "application for judicial review" means an application under subsection 1 of section 2;
- (b) "court" means the Supreme Court;
- (c) "licence" includes any permit, certificate, approval, registration or similar form of permission required by law;
- (d) "municipality" has the same meaning as in The R.S.O. 1960, Department of Municipal Affairs Act, and includes a district, metropolitan and regional municipality and their local boards;
- (e) "party" includes a municipality, association of employers, a trade union or council of trade unions which may be a party to any of the proceedings mentioned in subsection 1 of section 2:
- (f) "statutory power of decision" means a power or right conferred by or under a statute to make a decision deciding or prescribing,
 - (i) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or
 - (ii) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether he is legally entitled thereto or not,

and includes the powers of an inferior court;

- (g) "statutory power" means a power or right conferred by or under a statute,
 - (i) to make any regulation, rule, by-law or order, or to give any other direction having force as subordinate legislation;
 - (ii) to exercise a statutory power of decision,
 - (iii) to require any person or party to do or to refrain from doing any act or thing that, but for such requirement, such person or party would not be required by law to do or to refrain from doing,
 - (iv) to do any act or thing that would, but for such power or right, be a breach of the legal rights of any person or party.

Applications for judicial review

- 2.—(1) On an application by way of originating notice, which may be styled "Notice of Application for Judicial Review", the court may, notwithstanding any right of appeal, by order grant any relief that the applicant would be entitled to in any one or more of the following:
 - 1. Proceedings by way of application for an order in the nature of mandamus, prohibition or certiorari.
 - Proceedings by way of an action for a declaration or for an injunction, or both, in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power.

Error of law

(2) The power of the court to set aside a decision for error of law on the face of the record on an application for an order in the nature of certiorari is extended so as to apply on an application for judicial review in relation to any decision made in the exercise of any statutory power of decision to the extent it is not limited or precluded by the Act conferring such power of decision.

Lack of

(3) Where the findings of fact of a tribunal made in the exercise of a statutory power of decision are required by any statute or law to be based exclusively on evidence admissible before it and on facts of which it may take notice and there is no such evidence and there are no such facts to support findings of fact made by the tribunal in making a decision in

the exercise of such power, the court may set aside the decision on an application for judicial review.

- (4) Where the applicant on an application for judicial Power to review is entitled to a judgment declaring that a decision made in the exercise of a statutory power of decision is unauthorized or otherwise invalid, the court may, in the place of such declaration, set aside the decision.
- (5) Where, in any of the proceedings enumerated in sub-Power to section 1, the court had before the coming into force of this relief Act a discretion to refuse to grant relief on any grounds, the court has a like discretion on like grounds to refuse to grant any relief on an application for judicial review.
- (6) Subsection 5 does not apply to the discretion of the Where subs. 5 court before the coming into force of this Act to refuse to does not grant relief in any of the proceedings enumerated in subsection 1 on the ground that the relief should have been sought in other proceedings enumerated in subsection 1.
- **3.** On an application for judicial review in relation to a Defects in statutory power of decision, where the sole ground for relief technical established is a defect in form or a technical irregularity, if irregularities the court finds that no substantial wrong or miscarriage of justice has occurred, the court may refuse relief and, where the decision has already been made, may make an order validating the decision, notwithstanding such defect, to have effect from such time and on such terms as the court considers proper.
- **4.** On an application for judicial review, the court may make Interim such interim order as it considers proper pending the final determination of the application.
- 5. Notwithstanding any limitation of time for the bringing Extension of of an application for judicial review fixed by or under any bringing Act, the court may extend the time for making the application, either before or after expiration of the time so limited, on such terms as it considers proper, where it is satisfied that there are *prima facie* grounds for relief and that no substantial prejudice or hardship will result to any person affected by reason of the delay.
- **6.**—(1) Subject to subsection 2, an application for judicial Application review shall be made to the Divisional Court.
- (2) An application for judicial review may be made to Application the High Court with leave of a judge thereof, which may be High Court granted at the hearing of the application, where it is made

to appear to the judge that the case is one of urgency and that the delay required for an application to the Divisional Court is likely to involve a failure of justice.

Transfer to Divisional Court (3) Where a judge refuses leave for an application under subsection 2, he may order that the application be transferred to the Divisional Court.

Appeal from judge (4) An appeal lies to the Divisional Court from a final order of the High Court disposing of an application for judicial review pursuant to leave granted under subsection 2.

Summary disposition of mandamus, etc.

7. An application for an order in the nature of mandamus, prohibition or certiorari shall be deemed to be an application for judicial review and shall be made, treated and disposed of as if it were an application for judicial review.

Summary disposition of actions 8. Where an action for a declaration or injunction, or both, whether with or without a claim for other relief, is brought and the exercise, refusal to exercise or proposed or purported exercise of a statutory power is an issue in the action, a judge of the High Court may on the application of any party to the action, if he considers it appropriate, direct that the action be treated and disposed of summarily, in so far as it relates to the exercise, refusal to exercise or proposed or purported exercise of such power, as if it were an application for judicial review and may order that the hearing on such issue be transferred to the Divisional Court or may grant leave for it to be disposed of in accordance with subsection 2 of section 6.

Sufficiency of application 9.—(1) It is sufficient in an application for judicial review if an applicant sets out in the notice the grounds upon which he is seeking relief and the nature of the relief that he seeks without specifying the proceedings enumerated in subsection 1 of section 2 in which the claim would have been made before the coming into force of this Act.

Exerciser of power must be a party (2) For the purposes of an application for judicial review in relation to the exercise, refusal to exercise or proposed or purported exercise of a statutory power, the person who is authorized to exercise the power may be a party to the application.

Idem

(3) For the purposes of subsection 2, any two or more persons who, acting together, may exercise a statutory power, whether styled a board or commission or by any other collective title, shall be deemed to be a person under such collective title.

- (4) Notice of an application for judicial review shall be Notice to served upon the Minister of Justice and Attorney General who General is entitled as of right to be heard in person or by counsel on the application.
- 10. When notice of an application for judicial review of a Record to decision made in the exercise or purported exercise of a S.C.O. statutory power of decision has been served on the person making the decision, such person shall forthwith file in the court for use on the application, the record of the proceedings in which the decision was made.
- **11.** Where not inconsistent with this Act, the rules of Rules of practice and procedure of the court apply to applications for judicial review and to appeals from final orders therein, and the Rules Committee established under *The Judicature Act* R.S.O. 1960, may amend such rules or make additional rules applicable thereto.
- 12.—(1) Subject to subsection 2, where reference is made in References any other Act or in any regulation, rule or by-law to any Acts, etc. of the proceedings enumerated in subsection 1 of section 2, such reference shall, after the coming into force of this Act, be read and construed to include a reference to an application for judicial review.
- (2) Nothing in this Act affects proceedings under *The Habeas* Proceedings Corpus Act or the issue of a writ of certiorari thereunder or R.S.O. 1960, proceedings pursuant thereto, but an application for judicial review may be brought in aid of an application for a writ of habeas corpus.
- 13. This Act comes into force on a day to be named by $_{\rm ment}^{\rm Commence}$ the Lieutenant Governor by his proclamation.
- 14. This Act may be cited as The Judicial Review Procedure Short title Act, 1971.

An Act to provide a Single Procedure for the Judicial Review of the Exercise or the Failure to Exercise a Statutory Power

1st Reading June 4th, 1971

2nd Reading June 24th, 1971

3rd Reading July 13th, 1971

THE HON. W. G. DAVIS
Prime Minister

Publication

-B 5 6

4th Session, 28th Legislature, Ontario 20 Elizabeth II, 1971

The Public Inquiries Act, 1971

THE HON. W. G. DAVIS
Prime Minister



EXPLANATORY NOTE

The purpose of this Bill is to give effect to the recommendations of the McRuer Report No. 1 (Vol. 1, pp. 463-465) with respect to the redrafting of this very old statute.

The Bill is in three parts.

Part I deals specifically with Royal Commissions. It provides safeguards for persons having a substantial and direct interest in the subject matter of an inquiry who are to be permitted to give evidence and to call and examine or cross-examine witnesses (section 5 (1)). The Bill also provides that no finding of misconduct on the part of any person shall be made unless he had reasonable notice of the allegations and was allowed full opportunity during the inquiry to be heard in person or by counsel (section 5 (2)).

Part II confers powers on a commission, subject to judicial control, to compel the attendance of witnesses and the production of documents. It also provides for automatic protection against self-incrimination and preserves evidential privileges. Under many statutes, powers are now conferred on officials or tribunals by reference to the powers that may be conferred on commissioners under *The Public Inquiries Act*. It is proposed that for the future the reference should be to the powers conferred by Part II of *The Public Inquiries Act*.

Part III permits the Lieutenant Governor in Council to authorize a commission to obtain bench warrants for the arrest of witnesses who refuse to appear, and search warrants to search premises for evidence. Both these powers are subject to judicial control.

BILL 55 1971

The Public Inquiries Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "commission" means the one or more persons appointed to conduct an inquiry under this Act;
- (b) "inquiry" means an inquiry under this Act. New.

PART I

- 2. Whenever the Lieutenant Governor in Council deems it Appoint-expedient to cause inquiry to be made concerning any matter commission connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein or that he declares to be a matter of public concern and the inquiry is not regulated by any special law, he may, by commission, appoint one or more persons to conduct the inquiry. R.S.O. 1960, c. 323, s. 1, part, amended.
- **3.** Subject to sections 4 and 5, the conduct of and the pro-Procedure cedure to be followed on an inquiry is under the control and direction of the commission conducting the inquiry. *New*.
- 4. All hearings on an inquiry are open to the public except Hearings where the commission conducting the inquiry is of the opinion exceptions that,
 - (a) matters involving public security may be disclosed at the hearing; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof

in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the commission may hold the hearing concerning any such matters in camera. New.

Rights of persons interested **5.**—(1) A commission shall accord to any person who satisfies it that he has a substantial and direct interest in the subject matter of its inquiry an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by his counsel on evidence revelant to his interest.

Rights of persons before misconduct found (2) No finding of misconduct on the part of any person shall be made against him in any report of a commission after an inquiry unless that person had reasonable notice of the substance of the misconduct alleged against him and was allowed full opportunity during the inquiry to be heard in person or by counsel. *New*.

Stated

6.—(1) Where the authority to appoint a commission under this Act or the authority of a commission to do any act or thing proposed to be done or done by the commission in the course of its inquiry is called into question by a person affected, the commission may of its own motion or upon the request of such person state a case in writing to the Divisional Court setting forth the material facts and the grounds upon which the authority to appoint the commission or the authority of the commission to do the act or thing are questioned.

Order directing stated case (2) If the commission refuses to state a case under subsection 1, the person requesting it may apply to the Divisional Court for an order directing the commission to state such a case.

Court to hear and determine stated case (3) Where a case is stated under this section, the Divisional Court shall hear and determine in a summary manner the question raised. *New*.

Proceedings stayed (4) Pending the decision of the Divisional Court on a case stated under this section, no further proceedings shall be taken by the commission with respect to the subject matter of the stated case but it may continue its inquiry into matters not in issue in the stated case. R.S.O. 1960, c. 323, s. 5 (3), amended.

PART II

Power to summons witnesses, papers, etc.

- 7.—(1) A commission may require any person by summons,
 - (a) to give evidence on oath or affirmation at an inquiry; or

(b) to produce in evidence at an inquiry such documents and things as the commission may specify,

relevant to the subject matter of the inquiry and not inadmissible in evidence at the inquiry under section 11. R.S.O. 1960, c. 323, s. 1, part, amended.

(2) A summons issued under subsection 1 shall be in Form 1 Form and service of and shall be served personally on the person summoned and summons he shall be paid at the time of service the like fees and allowances for his attendance as a witness before the commission as are paid for the attendance of a witness summoned to attend before the Supreme Court. New.

8. Where any person without lawful excuse,

Stated case for contempt for failure

- (a) on being duly summoned under section 7 as a witness hearing, etc. at an inquiry, makes default in attending at the inquiry; or
- (b) being in attendance as a witness at an inquiry, refuses to take an oath or to make an affirmation legally required by the commission to be taken or made, or to produce any document or thing in his power or control legally required by the commission to be produced to it, or to answer any question to which the commission may legally require an .answer; or
- (c) does any other thing that would, if the commission had been a court of law having power to commit for contempt, have been contempt of that court.

the commission may state a case to the Divisional Court setting out the facts and that court may, on the application of the commission or of the Minister of Justice and Attorney General, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defense, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. New.

9. A witness at an inquiry shall be deemed to have objected Protection of witnesses to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence. New.

Unsworn evidence admissible 10. A commission may admit at an inquiry evidence not given under oath or affirmation. New.

Privilege

11. Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence. *New*.

Release of documents

12.—(1) Documents and things produced in evidence at an inquiry shall, upon request of the person who produced them or the person entitled thereto, be released to him by the commission within a reasonable time.

Photocopies of documents

(2) Where a document has been produced in evidence before a commission, the commission may or the person producing it may with the leave of the commission, cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a document purporting to be a copy of a document produced in evidence, certified to be a true copy thereof by the commission, is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced. New.

Power to administer oaths and require evidence under oath **13.** A commission has power to administer oaths and affirmations for the purpose of an inquiry and may require evidence before it to be given under oath or affirmation. *New*.

Powers of each of two or more commissioners

14. Where two or more persons are appointed to make an inquiry, any one of them may exercise the powers conferred by section 7, 12 or 13. *New*.

PART III

Application of Part III

15.—(1) This Part does not apply to an inquiry unless the Lieutenant Governor in Council declares that this Part does apply thereto.

Idem

(2) The Lieutenant Governor in Council may, if he is satisfied that it is necessary to achieve the purposes of an inquiry, in the order in council authorizing the issue of the commission for the inquiry, or by a subsequent order in council, declare that this Part applies to the inquiry and to the commission conducting it. *New*.

Warrant for apprehension county or district court of the service of a summons to appear at an inquiry upon a person and that,

(a) such person has failed to attend or to remain in attendance at the inquiry in accordance with the the requirements of the summons;

- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and
- (c) his presence is material to achievement of the purposes of the inquiry,

the judge may, by his warrant in Form 2 directed to any sheriff, police officer or constable, cause such person to be apprehended anywhere within Ontario and forthwith to be brought before the commission conducting the inquiry and to be detained in custody as the judge may order until his presence as a witness before the inquiry is no longer required, or, in the discretion of the judge, to be released on a recognizance, with or without sureties, conditioned for appearance to give evidence.

- (2) An application under subsection 1 may be made by the Idem commission conducting the inquiry and the service of the summons and payment or tender of fees and allowances may be proved by affidavit. *New*.
- 17.—(1) A commission may in writing appoint a person to Appointmake an investigation, relevant to the subject matter of the investigators inquiry it is conducting.
- (2) Where a judge of the county or district court is satisfied Search upon an *ex parte* application by a person appointed by a commission to make an investigation under this section,
 - (a) that the commission conducting the inquiry has appointed the applicant to make an investigation under this section; and
 - (b) that there are reasonable grounds for believing that there are in any building, receptacle or place, including a dwelling house, in the county or district for which the judge is appointed any documents or things relevant to the subject matter of the inquiry,

the judge may issue a warrant in Form 3 authorizing the person making the investigation, together with such police officers and constables as he calls upon to assist him, to enter and search if necessary by force, such building, receptacle or place, for such documents or things.

(3) A person making an investigation under this section Removal of may, upon giving a receipt therefor, remove any document or thing found in his investigation relevant to the subject matter of the inquiry and deliver it to the commission which shall keep custody of it.

Release of documents. etc.

- (4) Documents and things delivered to a commission by a person appointed to make an investigation under this section shall upon request of the person from whose custody they were removed or the person entitled thereto be released to him by the commission within a reasonable time.
- (5) Where a document has been delivered to a commission by a person making an investigation under this section, the commission may cause the document to be photocopied and the photocopy may be filed in evidence in place of the document delivered to the commission and a copy of such document certified by the commission to be a true copy thereof, is admissible in evidence in proceedings in which the document so delivered is admissible, as evidence of the document so delivered.

Powers re inquiries under other Acts hereafter powers of

18. Where, for the purpose of an investigation, inquiry or matter under any Act or regulation, any person or body is given the powers of or that may be conferred on a commisunder Part II sioner under The Public Inquiries Act or the powers of a court in civil cases, on and after the day this Act comes into force such person or body may exercise the powers of a commission under Part II of this Act, which Part applies to such investigation, inquiry or matter as if it were an inquiry under this Act.

R.S.O. 1960, repealed

19. The Public Inquiries Act is repealed.

Commencement

20. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

21. This Act may be cited as The Public Inquiries Act, 1971.

FORM 1

(Section 7)

Summons to Witness
RE:
To:
You are hereby summoned and required to attend before the
at the hour of

Dated this, 19
(Name of Commission
Note:
If you fail to attend and give evidence at the inquiry, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court of Ontario in like manner as if for contempt of that Court for disobedience to a subpoena.

FORM 2
(Section 16)
Bench Warrant Re:
To: A.B., Sheriff, etc.
Whereas proof has been made before me that <i>C.D.</i> was duly summoned to appear before (name of commission)
THESE ARE therefore to command you to take the said <i>C.D.</i> to bring and have him before the said commission at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the said inquiry, and that you detain him in your custody until he has given his evidence or until the sittings of the said inquiry have ended or until other orders may be made concerning him.
GIVEN UNDER MY HAND this day of, 19,
Judge.

FORM 3

(Section 17)

SEARCH WARRANT

Re:	
To: A.B. (investicalls upon to	gator) and to such police officers and constables as he assist him:
that there are reasearched for and t	appears on the oath of of the of of of of of asonable grounds for believing that (describe things to be the inquiry in respect of which search is to be made) are in at (hereinafter called the premises);
(as the judge may	efore, to authorize and require you between the hours of $direct$) to enter into the said premises and to search for the to bring them before $E.F.$, the commission conducting
GIVEN UND	ER MY HAND thisday of, 19, at
	Judge.



1st Reading June 4th, 1971

2nd Reading

3rd Reading

The Hon. W. G. Davis Prime Minister

(Government Bill)

-B56

4TH Session, 28TH Legislature, Ontario 20 Elizabeth II, 1971

The Public Inquiries Act, 1971

THE HON. W. G. DAVIS
Prime Minister



(Reprinted as amended by the Legal Administration Committee)

EXPLANATORY NOTE

The purpose of this Bill is to give effect to the recommendations of the McRuer Report No. 1 (Vol. 1, pp. 463-465) with respect to the redrafting of this very old statute.

The Bill is in three parts.

Part I deals specifically with Royal Commissions. It provides safeguards for persons having a substantial and direct interest in the subject matter of an inquiry who are to be permitted to give evidence and to call and examine or cross-examine witnesses (section 5 (1)). The Bill also provides that no finding of misconduct on the part of any person shall be made unless he had reasonable notice of the allegations and was allowed full opportunity during the inquiry to be heard in person or by counsel (section 5 (2)).

Part II confers powers on a commission, subject to judicial control, to compel the attendance of witnesses and the production of documents. It also provides for automatic protection against self-incrimination and preserves evidential privileges. Under many statutes, powers are now conferred on officials or tribunals by reference to the powers that may be conferred on commissioners under *The Public Inquiries Act*. It is proposed that for the future the reference should be to the powers conferred by Part II of *The Public Inquiries Act*.

Part III permits the Lieutenant Governor in Council to authorize a commission to obtain bench warrants for the arrest of witnesses who refuse to appear, and search warrants to search premises for evidence. Both these powers are subject to judicial control.

BILL 55 1971

The Public Inquiries Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act.

Interpretation

- (a) "commission" means the one or more persons appointed to conduct an inquiry under this Act;
- (b) "inquiry" means an inquiry under this Act. New.

PART I

- 2. Whenever the Lieutenant Governor in Council deems it Appoint-expedient to cause inquiry to be made concerning any matter commission connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein or that he declares to be a matter of public concern and the inquiry is not regulated by any special law, he may, by commission, appoint one or more persons to conduct the inquiry. R.S.O. 1960, c. 323, s. 1, part, amended.
- **3.** Subject to sections 4 and 5, the conduct of and the pro-Procedure cedure to be followed on an inquiry is under the control and direction of the commission conducting the inquiry. *New*.
- **4.** All hearings on an inquiry are open to the public except Hearings where the commission conducting the inquiry is of the opinion exceptions that,
 - (a) matters involving public security may be disclosed at the hearing; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof

in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the commission may hold the hearing concerning any such matters in camera. New.

Rights of persons interested

5.—(1) A commission shall accord to any person who satisfies it that he has a substantial and direct interest in the subject matter of its inquiry an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by his counsel on evidence revelant to his interest.

Rights of persons before misconduct found (2) No finding of misconduct on the part of any person shall be made against him in any report of a commission after an inquiry unless that person had reasonable notice of the substance of the misconduct alleged against him and was allowed full opportunity during the inquiry to be heard in person or by counsel. *New*.

Stated

6.—(1) Where the authority to appoint a commission under this Act or the authority of a commission to do any act or thing proposed to be done or done by the commission in the course of its inquiry is called into question by a person affected, the commission may of its own motion or upon the request of such person state a case in writing to the Divisional Court setting forth the material facts and the grounds upon which the authority to appoint the commission or the authority of the commission to do the act or thing are questioned.

Order directing stated case (2) If the commission refuses to state a case under subsection 1, the person requesting it may apply to the Divisional Court for an order directing the commission to state such a case.

Court to hear and determine stated

(3) Where a case is stated under this section, the Divisional Court shall hear and determine in a summary manner the question raised. *New*.

Proceedings stayed

(4) Pending the decision of the Divisional Court on a case stated under this section, no further proceedings shall be taken by the commission with respect to the subject matter of the stated case but it may continue its inquiry into matters not in issue in the stated case. R.S.O. 1960, c. 323, s. 5 (3), amended.

PART II

Power to summons witnesses, papers, etc.

- 7.—(1) A commission may require any person by summons,
 - (a) to give evidence on oath or affirmation at an inquiry; or

(b) to produce in evidence at an inquiry such documents and things as the commission may specify,

relevant to the subject matter of the inquiry and not inadmissible in evidence at the inquiry under section 11. R.S.O. 1960, c. 323, s. 1, part, amended.

(2) A summons issued under subsection 1 shall be in Form 1 Form and service of and shall be served personally on the person summoned and summons he shall be paid at the time of service the like fees and allowances for his attendance as a witness before the commission as are paid for the attendance of a witness summoned to attend before the Supreme Court. New.

8. Where any person without lawful excuse,

Stated case for contempt for failure to attend

- (a) on being duly summoned under section 7 as a witness hearing, etc. at an inquiry, makes default in attending at the inquiry: or
- (b) being in attendance as a witness at an inquiry, refuses to take an oath or to make an affirmation legally required by the commission to be taken or made, or to produce any document or thing in his power or control legally required by the commission to be produced to it, or to answer any question to which the commission may legally require an .answer: or
- (c) does any other thing that would, if the commission had been a court of law having power to commit for contempt, have been contempt of that court,

the commission may state a case to the Divisional Court setting out the facts and that court may, on the application of the commission or of the Minister of Justice and Attorney General, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defense, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. New.

9.—(1) A witness at an inquiry shall be deemed to have Protection objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence. New.

(2) A witness shall be informed by the commission of his Right to right to object to answer any question under section 5 of the under R.S.C. 1952, Canada Evidence Act.

55

Unsworn evidence admissible

10. A commission may admit at an inquiry evidence not given under oath or affirmation. New.

Privilege

11. Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence.

Release of documents

12.—(1) Documents and things produced in evidence at an inquiry shall, upon request of the person who produced them or the person entitled thereto, be released to him by the commission within a reasonable time.

Photocopies documents

(2) Where a document has been produced in evidence before a commission, the commission may or the person producing it may with the leave of the commission, cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a document purporting to be a copy of a document produced in evidence, certified to be a true copy thereof by the commission. is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced. New.

Power to administer oaths and require evidence under oath

13. A commission has power to administer oaths and affirmations for the purpose of an inquiry and may require evidence before it to be given under oath or affirmation. New.

Powers of each of two or more commissioners

14. Where two or more persons are appointed to make an inquiry, any one of them may exercise the powers conferred by section 7, 12 or 13. New.

PART III

Application of Part III

15.—(1) This Part does not apply to an inquiry unless the Lieutenant Governor in Council declares that this Part does apply thereto.

Idem

(2) The Lieutenant Governor in Council may, if he is satisfied that it is necessary to achieve the purposes of an inquiry, in the order in council authorizing the issue of the commission for the inquiry, or by a subsequent order in council, declare that this Part applies to the inquiry and to the commission conducting it. New.

Warrant

- **16.**—(1) Upon proof to the satisfaction of a judge of a apprehension county or district court of the service of a summons to appear at an inquiry upon a person and that,
 - (a) such person has failed to attend or to remain in attendance at the inquiry in accordance with the the requirements of the summons;

- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and
- (c) his presence is material to achievement of the purposes of the inquiry,

the judge may, by his warrant in Form 2 directed to any sheriff, police officer or constable, cause such person to be apprehended anywhere within Ontario and forthwith to be brought before the commission conducting the inquiry and to be detained in custody as the judge may order until his presence as a witness before the inquiry is no longer required, or, in the discretion of the judge, to be released on a recognizance, with or without sureties, conditioned for appearance to give evidence.

- (2) An application under subsection 1 may be made by the Idem commission conducting the inquiry and the service of the summons and payment or tender of fees and allowances may be proved by affidavit. *New*.
- 17.—(1) A commission may in writing appoint a person to Appointmake an investigation relevant to the subject matter of the investigators inquiry it is conducting.
- (2) Where a judge of the county or district court is satisfied Search upon an *ex parte* application by a person appointed by a commission to make an investigation under this section,
 - (a) that the commission conducting the inquiry has appointed the applicant to make an investigation under this section; and
 - (b) that there are reasonable grounds for believing that there are in any building, receptacle or place, including a dwelling house, in the county or district for which the judge is appointed any documents or things relevant to the subject matter of the inquiry,

the judge may issue a warrant in Form 3 authorizing the person making the investigation, together with such police officers and constables as he calls upon to assist him, to enter and search if necessary by force, such building, receptacle or place, for such documents or things.

(3) A person making an investigation under this section Removal of may, upon giving a receipt therefor, remove any document or thing found in his investigation relevant to the subject matter of the inquiry and deliver it to the commission which shall keep custody of it.

Release of documents,

- (4) Documents and things delivered to a commission by a person appointed to make an investigation under this section shall upon request of the person from whose custody they were removed or the person entitled thereto be released to him by the commission within a reasonable time.
- (5) Where a document has been delivered to a commission by a person making an investigation under this section, the commission may cause the document to be photocopied and the photocopy may be filed in evidence in place of the document delivered to the commission and a copy of such document certified by the commission to be a true copy thereof, is admissible in evidence in proceedings in which the document so delivered is admissible, as evidence of the document so delivered.

Powers re inquiries under other Acts hereafter powers of commission

18. Where, for the purpose of an investigation, inquiry or matter under any Act or regulation, any person or body is given the powers of or that may be conferred on a commisunder Part II sioner under The Public Inquiries Act or the powers of a court in civil cases, on and after the day this Act comes into force such person or body may exercise the powers of a commission under Part II of this Act, which Part applies to such investigation, inquiry or matter as if it were an inquiry under this Act.

R.S.O. 1960, c. 323, repealed

19. The Public Inquiries Act is repealed.

Commence-

20. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

21. This Act may be cited as The Public Inquiries Act, 1971.

FORM 1

(Section 7)

Summons to Witness

Ţ	K	E	:

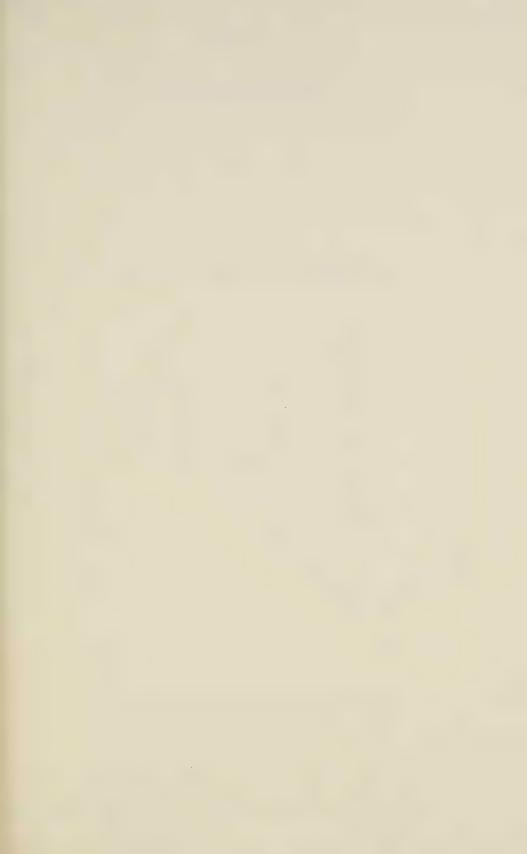
To:
You are hereby summoned and required to attend before the
Dated thisday of, 19
(value of Commission)
Note:
You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.
If you fail to attend and give evidence at the inquiry, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court of Ontario in the same manner as if for contempt of that Court for disobedience to a subpoena.
FORM 2
(Section 16)
Bench Warrant Re:
To: A.B., Sheriff, etc.
Whereas proof has been made before me that $C.D.$ was duly summoned to appear before $(name\ of\ commission)$ at the inquiry being conducted by the said commission at Toronto $(or\ as\ the\ case\ may\ be)$ on the day of ,19; that the presence of the said $C.D.$ is material to achievement of the purposes of the inquiry, and that the said $C.D.$ has failed to attend in accordance with the requirements of the summons.
These are therefore to command you to take the said <i>C.D.</i> to bring and have him before the said commission at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the said inquiry, and that you detain him in your custody until he has given his evidence or until the sittings of the said inquiry have ended or until other orders may be made concerning him.
GIVEN UNDER MY HAND thisday of, 19, at
Judge.

FORM 3

(Section 17)

SEARCH WARRANT

RE:
To: $A.B.$ (investigator) and to such police officers and constables as he calls upon to assist him:
Whereas it appears on the oath of of the of
This is, therefore, to authorize and require you between the hours of (as the judge may direct) to enter into the said premises and to search for the said things and to bring them before E.F., the commission conducting the said inquiry.
GIVEN UNDER MY HAND thisday of, 19, at
Judge.



1st Reading
June 4th, 1971

2nd Reading June 24th, 1971

3rd Reading

THE HON. W. G. DAVIS
Prime Minister

(Reprinted as amended by the Legal Administration Committee)

56

4th Session, 28th Legislature, Ontario 20 Elizabeth II, 1971

The Public Inquiries Act, 1971

THE HON. W. G. DAVIS
Prime Minister





BILL 55 1971

The Public Inquiries Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) "commission" means the one or more persons appointed to conduct an inquiry under this Act;
- (b) "inquiry" means an inquiry under this Act. New.

PART I

- 2. Whenever the Lieutenant Governor in Council deems it Appoint-expedient to cause inquiry to be made concerning any matter commission connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein or that he declares to be a matter of public concern and the inquiry is not regulated by any special law, he may, by commission, appoint one or more persons to conduct the inquiry. R.S.O. 1960, c. 323, s. 1, part, amended.
- **3.** Subject to sections 4 and 5, the conduct of and the pro-Procedure cedure to be followed on an inquiry is under the control and direction of the commission conducting the inquiry. *New*.
- 4. All hearings on an inquiry are open to the public except Hearings where the commission conducting the inquiry is of the opinion exceptions that,
 - (a) matters involving public security may be disclosed at the hearing; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof

in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the commission may hold the hearing concerning any such matters in camera. New.

Rights of persons interested **5.**—(1) A commission shall accord to any person who satisfies it that he has a substantial and direct interest in the subject matter of its inquiry an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by his counsel on evidence revelant to his interest.

Rights of persons before misconduct found (2) No finding of misconduct on the part of any person shall be made against him in any report of a commission after an inquiry unless that person had reasonable notice of the substance of the misconduct alleged against him and was allowed full opportunity during the inquiry to be heard in person or by counsel. *New*.

Stated

6.—(1) Where the authority to appoint a commission under this Act or the authority of a commission to do any act or thing proposed to be done or done by the commission in the course of its inquiry is called into question by a person affected, the commission may of its own motion or upon the request of such person state a case in writing to the Divisional Court setting forth the material facts and the grounds upon which the authority to appoint the commission or the authority of the commission to do the act or thing are questioned.

Order directing stated case (2) If the commission refuses to state a case under subsection 1, the person requesting it may apply to the Divisional Court for an order directing the commission to state such a case.

Court to hear and determine stated case (3) Where a case is stated under this section, the Divisional Court shall hear and determine in a summary manner the question raised. *New*.

Proceedings stayed (4) Pending the decision of the Divisional Court on a case stated under this section, no further proceedings shall be taken by the commission with respect to the subject matter of the stated case but it may continue its inquiry into matters not in issue in the stated case. R.S.O. 1960, c. 323, s. 5 (3), amended.

PART II

Power to summons witnesses, papers, etc.

- 7.—(1) A commission may require any person by summons,
 - (a) to give evidence on oath or affirmation at an inquiry; or

(b) to produce in evidence at an inquiry such documents and things as the commission may specify,

relevant to the subject matter of the inquiry and not inadmissible in evidence at the inquiry under section 11. R.S.O. 1960, c. 323, s. 1, part, amended.

(2) A summons issued under subsection 1 shall be in Form 1 Form and service of and shall be served personally on the person summoned and summons he shall be paid at the time of service the like fees and allowances for his attendance as a witness before the commission as are paid for the attendance of a witness summoned to attend before the Supreme Court. New.

8. Where any person without lawful excuse.

Stated case for contempt for failure

- (a) on being duly summoned under section 7 as a witness to attend hearing, etc. at an inquiry, makes default in attending at the inquiry; or
- (b) being in attendance as a witness at an inquiry, refuses to take an oath or to make an affirmation legally required by the commission to be taken or made, or to produce any document or thing in his power or control legally required by the commission to be produced to it, or to answer any question to which the commission may legally require an .answer: or
- (c) does any other thing that would, if the commission had been a court of law having power to commit for contempt, have been contempt of that court,

the commission may state a case to the Divisional Court setting out the facts and that court may, on the application of the commission or of the Minister of Justice and Attorney General, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defense, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. New.

9.—(1) A witness at an inquiry shall be deemed to have Protection objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence. New.

(2) A witness shall be informed by the commission of his Right to object right to object to answer any question under section 5 of the under R.S.C. 1952, Canada Evidence Act.

Unsworn evidence admissible **10.** A commission may admit at an inquiry evidence not given under oath or affirmation. *New*.

Privilege

11. Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence. *New*.

Release of documents

12.—(1) Documents and things produced in evidence at an inquiry shall, upon request of the person who produced them or the person entitled thereto, be released to him by the commission within a reasonable time.

Photocopies of documents

(2) Where a document has been produced in evidence before a commission, the commission may or the person producing it may with the leave of the commission, cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a document purporting to be a copy of a document produced in evidence, certified to be a true copy thereof by the commission, is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced. *New*.

Power to administer oaths and require evidence under oath **13.** A commission has power to administer oaths and affirmations for the purpose of an inquiry and may require evidence before it to be given under oath or affirmation. *New*.

Powers of each of two or more commissioners **14.** Where two or more persons are appointed to make an inquiry, any one of them may exercise the powers conferred by section 7, 12 or 13. *New*.

PART III

Application of Part III

15.—(1) This Part does not apply to an inquiry unless the Lieutenant Governor in Council declares that this Part does apply thereto.

Idem

(2) The Lieutenant Governor in Council may, if he is satisfied that it is necessary to achieve the purposes of an inquiry, in the order in council authorizing the issue of the commission for the inquiry, or by a subsequent order in council, declare that this Part applies to the inquiry and to the commission conducting it. New.

Warrant for apprehension county or district court of the service of a summons to appear at an inquiry upon a person and that,

(a) such person has failed to attend or to remain in attendance at the inquiry in accordance with the the requirements of the summons;

- (b) a sufficient sum for his fees and allowances has been duly paid or tendered to him; and
- (c) his presence is material to achievement of the purposes of the inquiry,

the judge may, by his warrant in Form 2 directed to any sheriff, police officer or constable, cause such person to be apprehended anywhere within Ontario and forthwith to be brought before the commission conducting the inquiry and to be detained in custody as the judge may order until his presence as a witness before the inquiry is no longer required, or, in the discretion of the judge, to be released on a recognizance, with or without sureties, conditioned for appearance to give evidence.

- (2) An application under subsection 1 may be made by the ^{Idem} commission conducting the inquiry and the service of the summons and payment or tender of fees and allowances may be proved by affidavit. *New*.
- 17.—(1) A commission may in writing appoint a person to Appointmake an investigation, relevant to the subject matter of the investigators inquiry it is conducting.
- (2) Where a judge of the county or district court is satisfied ^{Search} upon an *ex parte* application by a person appointed by a commission to make an investigation under this section,
 - (a) that the commission conducting the inquiry has appointed the applicant to make an investigation under this section; and
 - (b) that there are reasonable grounds for believing that there are in any building, receptacle or place, including a dwelling house, in the county or district for which the judge is appointed any documents or things relevant to the subject matter of the inquiry,

the judge may issue a warrant in Form 3 authorizing the person making the investigation, together with such police officers and constables as he calls upon to assist him, to enter and search if necessary by force, such building, receptacle or place, for such documents or things.

(3) A person making an investigation under this section Removal of may, upon giving a receipt therefor, remove any document or thing found in his investigation relevant to the subject matter of the inquiry and deliver it to the commission which shall keep custody of it.

Release of documents.

- (4) Documents and things delivered to a commission by a person appointed to make an investigation under this section shall upon request of the person from whose custody they were removed or the person entitled thereto be released to him by the commission within a reasonable time.
- (5) Where a document has been delivered to a commission by a person making an investigation under this section, the commission may cause the document to be photocopied and the photocopy may be filed in evidence in place of the document delivered to the commission and a copy of such document certified by the commission to be a true copy thereof, is admissible in evidence in proceedings in which the document so delivered is admissible, as evidence of the document so delivered.

Powers re inquiries under other Acts hereafter powers of commission

18. Where, for the purpose of an investigation, inquiry or matter under any Act or regulation, any person or body is given the powers of or that may be conferred on a commisunder Part II sioner under The Public Inquiries Act or the powers of a court in civil cases, on and after the day this Act comes into force such person or body may exercise the powers of a commission under Part II of this Act, which Part applies to such investigation, inquiry or matter as if it were an inquiry under this Act.

R.S.O. 1960, repealed

19. The Public Inquiries Act is repealed.

Commence-

20. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

21. This Act may be cited as The Public Inquiries Act, 1971.

FORM 1

(Section 7)

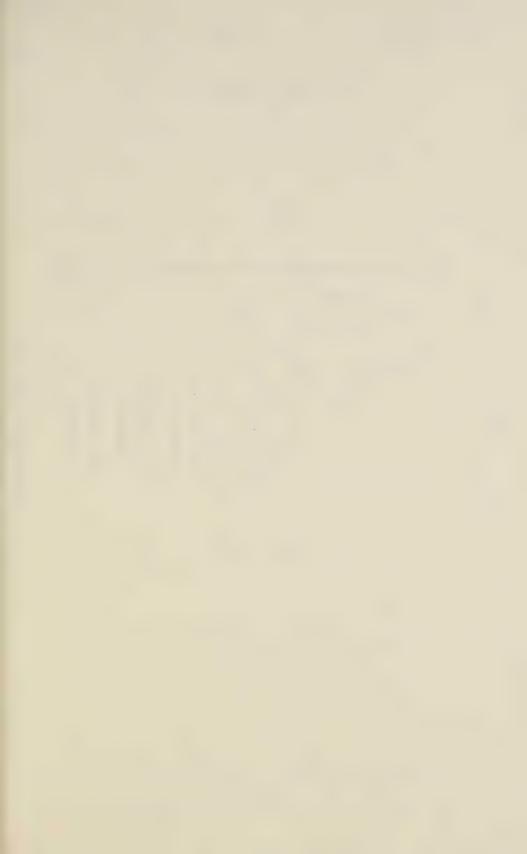
Summons to Witness Re:
To:
You are hereby summoned and required to attend before the
inquiry and to bring with you and produce at such time and place
Dated this, day of, 19
(Name of Commission)
Commissioner Note:
You are entitled to be paid the same personal allowances for your attendance at the hearing as are paid for the attendance of a witness summoned to attend before the Supreme Court.
If you fail to attend and give evidence at the inquiry, or to produce the documents or things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court of Ontario in the same manner as if for contempt of that Court for disobedience to a subpoena.
FORM 2
(Section 16)
Bench Warrant
RE:
To: A.B., Sheriff, etc.
Whereas proof has been made before me that C.D. was duly summoned to appear before (name of commission)
THESE ARE therefore to command you to take the said <i>C.D.</i> to bring and have him before the said commission at Toronto (or as the case may be) there to testify what he may know concerning the matters in question in the said inquiry, and that you detain him in your custody until he has given his evidence or until the sittings of the said inquiry have ended or until other orders may be made concerning him.
GIVEN UNDER MY HAND thisday of, 19,
at
Judge.

FORM 3

(Section 17)

SEARCH WARRANT

Re:
To: A.B. (investigator) and to such police officers and constables as he calls upon to assist him:
Whereas it appears on the oath of of the of in the of that there are reasonable grounds for believing that (describe things to be searched for and the inquiry in respect of which search is to be made) are in (hereinafter called the premises);
This is, therefore, to authorize and require you between the hours of (as the judge may direct) to enter into the said premises and to search for the said things and to bring them before E.F., the commission conducting the said inquiry.
GIVEN UNDER MY HAND thisday of, 19, at
Judge.



1st Reading June 4th, 1971

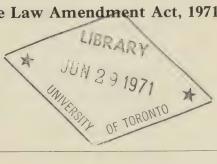
2nd Reading June 24th, 1971

3rd Reading July 13th, 1971

The Hon. W. G. Davis Prime Minister 20 ELIZABETH II, 1971

4TH SESSION, 28TH LEGISLATURE, ONTARIO

The Civil Rights Statute Law Amendment Act, 1971



THE HON. W. G. DAVIS Prime Minister

EXPLANATORY NOTES

The purpose of this Bill is to enact amendments to a number of statutes of Ontario to give effect to recommendations of McRuer Report No. 1. The amendments relate chiefly to powers conferred by these statutes to make decisions affecting a person's rights, to conduct inquiries and investigations or to enter and make inspections.

McRuer Report No. 1 specifies (p. 61) six matters to be considered in relation to a statutory power and states certain general principles governing them. Based on these principles the Report makes detailed recommendations of general application. In addition, detailed recommendations of specific application to particular matters are made.

The six matters to be considered and the relevant general recommendations are as follows:

- 1. The nature and scope of the power: Recommendations 1-6.
- 2. The persons by whom it is exercised: Recommendations 7-30.
- 3. The procedure by which it is exercised: Recommendations 31-64.
- 4. The right of appeal or opportunity for reconsideration afforded: Recommendations 65-73.
- 5. The control by the courts of its exercise: Recommendations 74-104.
- The provision for compensation in proper cases for injuries resulting from the exercise of the power.

Specific recommendations are made concerning powers to make regulations (Recommendations 105-137); powers of investigation and inquiry (Recommendations 138-188) and licensing (Recommendations 468-501). The amendments proposed in this Bill concern the six matters enumerated and the relevant recommendations.

The amendments are integrated with and completed by other legislation. The Expropriations Act, 1968-69 and The Judicature Amendment Act, 1970 (No. 4), establishing the Divisional Court have already been enacted. Bills to enact The Statutory Powers Procedure Act, 1971, The Public Inquiries Act, 1971 and The Judicial Review Procedure Act, 1971, have been introduced.

Amendments in this Bill concerning statutory powers of decision provide generally that there should be a hearing of the parties interested before a decision is made. The effect of requiring a hearing will be to make the standard procedure under the proposed Statutory Powers Procedure Act, 1971, apply. Duplicate procedural provisions in each statute amended are unnecessary. In certain instances, additional requirements recommended for the exercise of judicial functions are proposed, (Recommendations 51-55).

Powers of inquiry conferred by reference to *The Public Inquiries Act* are updated to refer to Part II of the proposed *Public Inquiries Act*, 1971.

Where appeals are now provided to the High Court of Justice or the Court of Appeal, the effect of the amendments to *The Judicature Act* is that the appeals will be made to the new Divisional Court. New appeals to the courts will, in general, go to the Divisional Court.

A Bill to enact *The Judicial Review Procedure Act, 1971* has been introduced to give effect to recommendations concerning control by the courts of the exercise of statutory powers.

Any reference in the explanatory notes to the Divisional Court shall be deemed to be a reference to the Court of Appeal until the provisions in *The Judicature Amendment Act, 1970 (No. 4)*, setting up the Divisional Court are proclaimed in force.

Section 1. Under the present Act a certificate that an orchard is a neglected orchard may be issued by the Provincial Entomologist on the basis of a report from an inspector without a hearing. The amendment proposes that a copy of the inspector's report be served on the owner or any person interested in the orchard allowing him to request a hearing before the certificate is issued.

BILL 56 1971

The Civil Rights Statute Law Amendment Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. Sections 4, 5 and 6 of *The Abandoned Orchards Act*, 1966, c. 1, 1966 are repealed and the following substituted therefor:

 1. Sections 4, 5 and 6 of *The Abandoned Orchards Act*, 1966, c. 1, 1966 are repealed and the following substituted therefor:

 1. Sections 4, 5 and 6 of *The Abandoned Orchards Act*, 1966, c. 1, 1966 are repealed and the following substituted therefor:
 - (1) Where an inspector reports in writing to the Report of Director that in his opinion the majority of the fruit trees in an orchard,
 - (a) are infected with any fruit tree disease;
 - (b) are affected by such other conditions as are designated in the regulations;
 - (c) have not been properly pruned, sprayed or treated with chemicals; or
 - (d) have not otherwise been properly maintained,

so as to seriously affect at that time the ability of the fruit trees to produce fruit commercially, the Director shall cause a copy of such report to be served on the owner of the orchard and on the Provincial Entomologist together with a notice that unless the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist within fifteen days after service of the notice, a notice requesting a hearing, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard.

(2) The copy of the report and notice mentioned in Service subsection 1 shall be served upon the owner by personal service or by mailing them addressed to him at his address shown on the last revised assessment roll.

Issue of certificate

- 5.—(1) If, within fifteen days after service of the copy and notice mentioned in subsection 1 of section 4,
 - (a) the owner or a person having an interest in the orchard does not mail or deliver a request for a hearing to the Provincial Entomologist, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard;
 - (b) the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist, a notice requesting a hearing, the Provincial Entomologist shall hold a hearing and if, after the hearing, he concurs in the report he may issue a certificate designating the orchard as a neglected orchard.

Parties to hearing (2) The person requesting the hearing, the inspector making the report and such other persons as the Provincial Entomologist may specify, are parties to a hearing required under subsection 1.

Inspection by Provincial Entomologist (3) Where the Provincial Entomologist holds a hearing under this section, he may inspect the orchard to which it relates, affording to the person requesting the hearing or his representative an opportunity of being present at the time of such inspection, and may take into consideration the result of the inspection in reaching his decision.

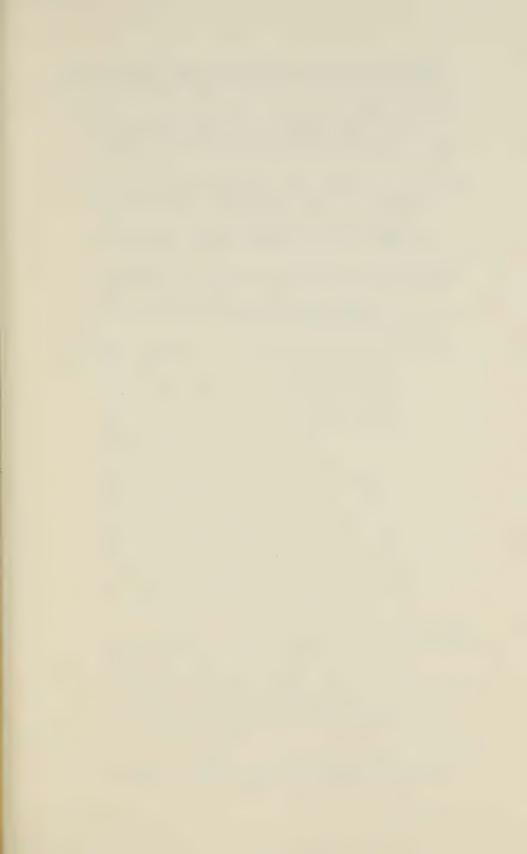
Service of certificate (4) A certificate designating an orchard as a neglected orchard shall be served upon the owner and, where a hearing was held, upon the person requesting the hearing if he is not the owner, by mailing or delivering a copy thereof to his address last known to the Provincial Entomologist, and a copy of the certificate shall be posted in a conspicuous place in the orchard.

Revocation of certificate

6. The Provincial Entomologist may at any time revoke a certificate issued under section 5.

Where service deemed made

6a. Where service of a report, notice or certificate under section 4 or 5 is made by mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the report, notice or certificate until a later date.



Section 2. The proposed amendments provide to the following effect:

- 1. A person affected by a complaint must consent to proceedings being taken under the Act.
- 2. The operations of boards of inquiry are restricted to the exercise of judicial functions without investigatory functions and their powers are clarified.
 - 3. A board of inquiry is required to act impartially in its proceedings.
- 4. Findings of fact of a board of inquiry must be based on evidence which is to be recorded.
- 5. An appeal is provided on all questions of law or fact or both to the Divisional Court.
- 6. Investigatory powers formerly conferred on a board of inquiry are now conferred on the Commission.
- 7. The procedure provided in *The Statutory Powers Procedure Act, 1971* will apply to proceedings by a board of inquiry.

- 2. Section 6 of *The Age Discrimination Act*, 1966 is repealed ¹⁹⁶⁶, c. 3, and the following substituted therefor:
 - 6.—(1) Any person who has reasonable grounds for Complaints believing that any person has contravened a provision of this Act may file with the Commission a complaint in the form prescribed by the Commission.
 - (2) Where a complaint is made by a person other than the Consent of person whom it is alleged was dealt with contrary person to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto.
 - 6a.—(1) Where a complaint has been filed with the Com-Inquiry and mission, the Commission or a person designated by it shall inquire into the complaint and endeavour to effect a settlement of the matter complained of.
 - (2) For the purposes of an inquiry under subsection 1, Access to the Commission, or any person so designated, on production of evidence of his designation, shall have access to and may view the premises involved in the complaint, other than an occupied place of residence, at all reasonable times and at any time when the premises are open for business or when employees are engaged in their work.
 - (3) Where a justice of the peace is satisfied by informa-Warrant tion upon oath that there is reasonable ground for believing that access to an occupied place of residence is required for the purposes of an inquiry under this Act, he may, at any time issue a warrant pursuant to section 14 of *The Summary Convictions Act* autho-R.S.O. 1960, rizing the Commission or other person named therein to enter and view such place of residence and every such warrant shall be executed between sunrise and sunset, unless the justice otherwise directs.
 - (4) The Commission or a person designated by it, has Inspection of the same powers for the purposes of an inquiry under this section to inspect and examine books, payrolls, records and other documents and to take extracts or copies thereof, and to enter premises and to question employees as are possessed by the Director of Employment Standards under section 33 of The Employment Standards Act, 1968.
 - 6b.—(1) Where it appears to the Commission that a Board of complaint will not be settled, the Commission shall

make a recommendation to the Minister as to whether or not a board of inquiry should be appointed, and the Minister may, in his discretion, appoint a board of inquiry consisting of one or more persons to hear and decide the complaint.

Parties to be notified of membership of board

- (2) Forthwith after the appointment of a board of inquiry, the Minister shall communicate the names of the members of the board to,
 - (a) the Commission; and
 - (b) the parties referred to in clauses b, c and d of subsection 1 of section 6c,

and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

Remuneration of members of board (3) The Lieutenant Governor in Council may determine the remuneration of the chairman and the members of a board of inquiry appointed under this section.

Parties to proceedings

- 6c.—(1) The parties to a proceeding before a board of inquiry with respect to any complaint are,
 - (a) the Commission, which shall have the carriage of the complaint;
 - (b) the person named in the complaint as the complainant;
 - (c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;
 - (d) any person named in the complaint as alleged to have contravened this Act; and
 - (e) any other person specified by the board upon such notice as the board may determine and after such person has been given an opportunity to be heard against his joinder as a party.

Copy of complaint annexed to notice (2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party except the Commission. (3) A member of the board hearing a complaint, shall Members at not have taken part in any investigation or considera- not to have tion of the complaint prior to the hearing and shall investigation, not communicate directly or indirectly in relation etc. to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (4) The oral evidence taken before a board at a hearing Recording of evidence shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (5) The findings of fact of the board pursuant to a hear-findings of fact ing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure Act, 1971. 1971, c. ...
- (6) Subject to appeal under section 6e, the board of Jurisdiction inquiry has exclusive jurisdiction and authority to determine any question of fact or law, or both, required to be decided by the board in reaching its decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.
- 6d. The board, after hearing a complaint,

Powers

- (a) shall decide whether or not any party has contravened this Act: and
- (b) may order any party who has contravened this Act to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision and to rectify any injury caused to any person by such contravention or to make compensation therefor.
- 6e.—(1) Any party to a hearing before a board may appeal Appeal from decision from the decision or order of the board to the Supreme of board Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be filed section, the board shall forthwith file in the Supreme in court Court the record of the proceedings before it in which the decision or order appealed from was made, which,

together with a transcript of the oral evidence before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

Representations by Minister (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court (4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act, and the court may substitute its opinion for that of the board.

R.S.O. 1960, c. 6, s. 1, amended

- **3.**—(1) Section 1 of *The Agricultural Associations Act* is amended by adding thereto the following clause:
 - (c) "Superintendent" means an officer of the Department of Agriculture and Food designated by the Minister as the Superintendent of Agricultural Associations.

R.S.O. 1960, c. 6, s. 18, re-enacted (2) Section 18 of *The Agricultural Associations Act* is repealed and the following substituted therefor:

Forfeiture of powers in non-user 18.—(1) Where the Superintendent is satisfied, after a hearing, that an Association has ceased for twelve months to do business as required by this Act and by its constitution and by-laws, or that the business of the Association is not being properly conducted, he may recommend to the Minister that the corporate powers of the Association be forefeited and the Minister may, after considering the record of the proceedings before the Superintendent and affording to any party to the proceedings an opportunity for argument, by order declare that the corporate powers of the Association are forfeited, and such powers shall thereupon cease and the Minister may give such directions as he considers proper to wind up the affairs of the Association.

Parties

(2) The Association, the complainant if any, and such other persons as the Superintendent may specify are parties to proceedings before the Superintendent under subsection 1.

Stated

(3) The Superintendent or the Minister, as the case may be, may, of his own motion or upon the request of any party to proceedings under this section, state Section 3. Provision is made for a hearing by the Superintendent. He is required to report to the Minister. The Minister is then required to hear argument by the parties. Provision is made for the statement of a case to the Divisional Court on any question of law.

Section 4

- 1. Under the present Act, the Minister decides all matters of doubt or dispute under the Act with an appeal from his decision to the Lieutenant Governor in Council. The amendments provide for such disputes to be decided in the first instance by the Superintendent of Agricultural Societies after a hearing, with an appeal to the Minister. The Superintendent or the Minister may state a case, or may be required to state a case, on any question of law to the Divisional Court. The procedure provided in *The Statutory Powers Procedure Act, 1971*, will apply to the hearing before the Superintendent.
- 2. Powers of investigation and inquiry are amended to confer the powers of a commission under Part II of *The Public Inquiries Act*, 1971.
- 3. A person from whom a premium or prize at an exhibition is withheld on grounds of fraud or misrepresentation is given an appeal to a judge of the county or district court.

a case in writing to the Supreme Court setting forth any question of law that arises in the proceedings and the facts material thereto.

- (4) If the Superintendent or the Minister, as the case Refusal may be, refuses to state a case under this section, case the party requesting it may apply to the Supreme Court for an order directing him to state such a case.
- (5) Where a case is stated under this section, the Decision Supreme Court shall hear and determine in a summary manner the question raised and shall certify its decision to the Superintendent or to the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the proceedings under subsection 1 in accordance therewith.
- **4.**—(1) Section 2 of *The Agricultural Societies Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 2.—(1) Where any dispute arises as to the operation or Disputes construction of this Act, the Superintendent shall, after a hearing, decide such dispute.
 - (2) A party to a dispute under this section may appeal Appeal from a decision of the Superintendent to the Minister within fifteen days after receipt of a copy of the decision of the Superintendent and the Minister may, after considering the record of the proceedings before the Superintendent and affording to the party an opportunity to submit argument on the appeal, affirm, vary or annul the decision of the Superintendent.
 - (3) The Superintendent or the Minister, as the case may Stated be, may of his own motion, or upon the request of any party to a dispute or an appeal, state a case in writing to the Supreme Court setting forth any question of law that arises at the hearing or on the appeal and the facts material thereto.
 - (4) If the Superintendent or the Minister, as the case Idem may be, refuses to state a case under this section, the party requesting it may apply to the Supreme Court for an order directing him to state such a case.
 - (5) Where a case is stated under this section, the Idem Supreme Court shall hear and determine the question raised in a summary manner and shall certify its

decision to the Superintendent or the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the dispute in accordance therewith.

R.S.O. 1960, c. 11, ss. 31, 32, re-enacted (2) Sections 31 and 32 of *The Agricultural Societies Act* are repealed and the following substituted therefor:

Inspection

31.—(1) The Minister may appoint a person to inspect the books and accounts of any society receiving legislative grants under this Act or to inquire into the affairs of such society, and every officer of the society shall, when required by such person, make available the books and accounts thereof for the purposes of such inspection or inquiry.

Powers under 1971, c. ... Pt. II (2) A person appointed under subsection 1 has, for the purposes of an inspection or inquiry thereunder, the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inspection or inquiry as if it were an inquiry under that Act.

Fraud or misrepresentation by exhibitor 32.—(1) Where the board of a society has reason to believe that any member or other person exhibiting any farm product, animal, fowl or other goods at an exhibition of the society has committed a fraud or made any misrepresentation in respect of such farm product, animal, fowl or other goods, the board may withhold payment or delivery of any premium or prize to such person, and the board shall forthwith furnish to him a written statement of its reasons for so doing.

Appeal

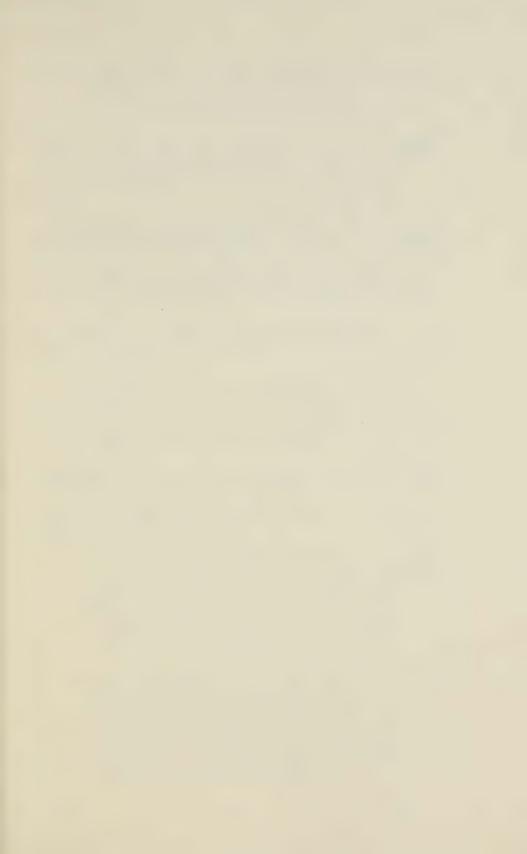
(2) A member or other person from whom a premium or prize has been withheld by the board of a society under subsection 1 may appeal, within fifteen days after receipt of the statement of the reasons of the board furnished under subsection 1, to a judge of the county or district court of the county or district in which the head office of the society is situate by filing a notice of appeal in the office of the clerk of the court and leaving a copy of the notice of appeal at the head office of the board.

Parties

(3) The appellant and the board from whose decision the appeal is taken are parties to an appeal under this section.

Hearing

(4) An appeal to a judge under this section shall be held by way of a hearing *de novo*.



SECTION 5.

- 1. Grounds for refusal to issue a licence are stated more specifically.
- 2. A licensee is given an appeal from a decision of the Director prescribing terms and conditions in his licence.
- 3. The Director is required to serve notice of a proposal to refuse to issue or renew or to revoke or suspend a licence and the applicant or licensee may require a hearing by the Ontario Hospital Services Commission.
- 4. Provisions on matters now covered by *The Statutory Powers Procedure Act, 1971* are repealed. Some additional procedural provisions supplementing that Act are proposed.

- (5) On an appeal under this section, the judge may powers of affirm, vary or annul the decision of the board and may order the board to pay or deliver any premium or prize withheld by it under this section.
- 5.—(1) Section 8 of *The Ambulance Act, 1968-69* is 1968-69, amended by striking out "The Director may refuse to issue amended a licence" in the first line and inserting in lieu thereof "Subject to section 10, the Director may refuse to issue a licence".
- (2) Clauses b, c and d of the said section 8 are repealed $\begin{array}{c} 1968-69, \\ c. 3, s. 8, \\ c. 3, s. 8, \\ c. 3, s. 8, \\ c. 61s. b-d, \\ re-enacted \\ re-enacte$
 - (b) where there is no public need for the ambulance service to be operated pursuant to the licence in the area where the applicant proposes to operate;
 - (c) where the applicant is not competent to operate or financially capable of operating the ambulance service reliably; or
 - (d) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the ambulance service will not be operated in accordance with law and with honesty and integrity.
- (3) Section 9 of *The Ambulance Act, 1968-69* is amended by ¹⁹⁶⁸⁻⁶⁹, adding at the commencement thereof "Subject to section 10". ^{amended}
- (4) The Ambulance Act, 1968-69 is amended by adding $^{1968-69}_{c.3}$, thereto the following section:
 - 9a.—(1) Where the Director issues a licence under this Hearing reterms
 Act and the licensee is dissatisfied with the terms of licence and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Commission require a hearing by the Commission and the Commission shall appoint a time for and hold a hearing.
 - (2) Pursuant to a hearing under subsection 1, the Com-Powers of mission may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper and such terms and conditions shall be terms and conditions of the licence.

1968-69, c. 3, ss. 10, 11, re-enacted; ss. 12-15, repealed (5) Sections 10, 11, 12, 13, 14 and 15 of *The Ambulance Act*, 1968-69 are repealed and the following substituted therefor:

Proposal to suspend, etc. 10.—(1) Where the Director proposes to refuse to issue or renew a licence or proposes to revoke or suspend a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Commission if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Commission and he may so require such a hearing.

Powers of Director where no hearing (3) Where an applicant or licensee does not require a hearing by the Commission in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of Commission where hearing (4) Where an applicant or licensee requires a hearing by the Commission in accordance with subsection 2, the Commission shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Commission considers the Director ought to take in accordance with this Act and the regulations, and for such purpose the Commission may substitute its opinion for that of the Director.

Terms and conditions

(5) The Commission may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.

Extension of time for appeal (6) The Commission may extend the time for the giving of notice requiring a hearing by an applicant or licensee under this section either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Commission may give such directions as it considers proper consequent upon the extension.

(7) Where, within the time prescribed therefor or, if no Continuation of licence time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Commission has expired and. where a hearing is required, until the Commission has made its decision.
- 11.—(1) The Director, the applicant or licensee who has Parties required the hearing and such other persons as are specified by the Commission are parties to proceedings before the Commission under this Act.
- (2) Notice of a hearing under section 10 shall afford hearing the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(3) An applicant or licensee who is a party to proceed- Examination of docuings under section 10 shall be afforded an opportunity mentary evidence to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

(4) Members of the Commission holding a hearing shall Members not have taken part in any investigation or consideration of the subject-matter of the hearing before the taken hearing and shall not communicate directly or in-investigation, directly in relation to the subject-matter of the etc. hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Commission may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(5) The oral evidence taken before the Commission at Recording of evidence a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

1971, c. . .

(6) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision (7) No member of the Commission shall participate in a decision of the Commission pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

1968-69, c. 3, s. 16, subs. 1, amended (6) Subsection 1 of section 16 of *The Ambulance Act*, 1968-69 is amended by striking out "under subsection 4 of section 15" in the third line.

1968-69, c. 3, s. 16, subs. 3, re-enacted (7) Subsection 3 of the said section 16 is repealed and the following substituted therefor:

Appeal to Court (3) Any person requesting a review under subsection 1 may appeal the Minister's decision on any point of law to the Supreme Court in accordance with the rules of court.

1968-69, c. 3, s. 17, re-enacted (8) Section 17 of *The Ambulance Act*, 1968-69 is repealed and the following substituted therefor:

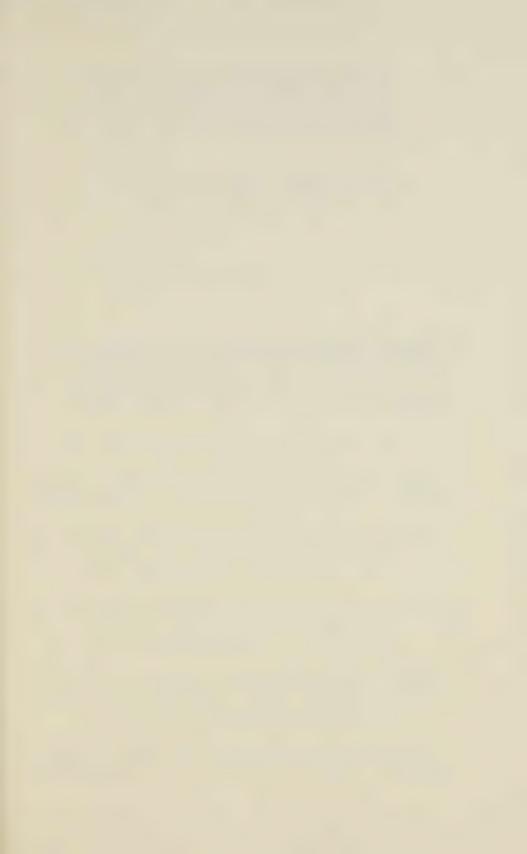
Service of notices 17. Except where otherwise provided, any notice required by this Act to be served shall be served personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

1968-69, c. 3, s. 18, subs. 2, amended (9) Subsection 2 of section 18 of *The Ambulance Act*, 1968-69 is amended by inserting after "inspector" in the first line "upon the production of his appointment under subsection 1" and by inserting after "the" in the first line "business".

1968-69, c. 3, s. 18, amended

(10) The said section 18 is amended by adding thereto the following subsection:

Confidential matters (3) Each person employed in the administration of this Act, including any person making an inquiry,



Section 6. The Act presently specifies grounds for refusing to issue or renew or for suspension or revocation of licences and establishes a Licence Review Board. The amendments now proposed are procedural and are explained in the explanatory note to the amendments to *The Artificial Insemination of Cattle Act, 1962-63*, in section 9 of the Bill. Provisions on matters now covered by *The Statutory Powers Procedure Act, 1971* are repealed.

inspection or an investigation under this section shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- **6.**—(1) Section 1 of *The Animals for Research Act*, 1968-69, 1968-69 is amended by adding thereto the following clauses: amended
 - (ca) "licence" means a licence under this Act;
 - (fa) "registration" means a registration under this Act.
- (2) Subsections 2, 3 and 4 of section 4 of *The Animals for* ¹⁹⁶⁸⁻⁶⁹, c. 4, s. 4, *Research Act*, 1968-69 are repealed and the following subsubss. 2-4, stituted therefor:
 - (2) Where the Director is of the opinion that an Refusal to applicant does not comply with clauses a and b of subsection 3 of section 3, he may, after a hearing, refuse to issue the licence.
 - (3) Subject to subsection 4, the Director shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - (4) Where the Director is of the opinion, in the case of Refusal to a licensee, that clause a or b of subsection 4 of suspension, section 3 applies, he may, after a hearing, refuse to renew or may suspend or revoke the licence.
- (3) Subsections 2, 3 and 4 of section 6 of *The Animals for* 1968-69, c. 4, s. 6. Research Act, 1968-69 are repealed and the following subsubss. 2-4, stituted therefor:

Refusal to register (2) Where the Director is of the opinion that a research facility in respect of which an application for registration is made does not contain the facilities, equipment or materials referred to in subsection 2 of section 5, he may, after a hearing, refuse to register the research facility.

Renewal

(3) Subject to subsection 4, the Director shall renew a registration on application therefor by the registrant in accordance with this Act and the regulations and payment of the prescribed fee.

Refusal to renew, suspension, etc. (4) Where the Director is of the opinion that clause a or b of subsection 3 of section 5 applies, he may, after a hearing, refuse to renew or may suspend or revoke the registration of the research facility.

1968-69, c. 4, ss. 7-12, re-enacted; ss. 13, 14, 16, repealed (4) Sections 7, 8, 9, 10, 11, 12, 13, 14 and 16 of *The Animals for Research Act*, 1968-69 are repealed and the following substituted therefor:

Provisional suspension, etc. 7.—(1) Notwithstanding section 4 and section 6, the Director, by notice to an operator and without a hearing, may provisionally refuse to renew or suspend the operator's licence or registration where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of, or the prevention of cruelty or maltreatment to, or of neglect of any animal and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence or registration should be refused or whether the licence or registration should be further suspended or revoked under this Act and the regulations.

Continuation of licence or registration pending renewal (2) Subject to subsection 1, where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence or registration, an operator has applied for a renewal thereof and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence or registration shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing 8. -(1) The notice of a hearing by the Director under section 4 or section 6 shall afford to the applicant or operator a reasonable opportunity to show or to

achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence or registration.

- (2) An applicant or operator who is a party to pro-Examination ceedings in which the Director holds a hearing shall mentary be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 9. Where the Director has refused to issue or renew or Variation of decision by has suspended or revoked a licence or registration Director pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or operator vary or rescind his decision but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act or the regulations.
- 10.—(1) Where the Director refuses to issue or renew or Appeal to suspends or revokes a licence or registration, the Board applicant or operator may by written notice delivered to the Director and filed with the Review Board within fifteen days after receipt of the decision of the Director, appeal to the Review Board.
- (2) The Review Board may extend the time for the Extension giving of notice by an applicant or operator under for appeal subsection 1 either before or after expiration of such time where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.
- (3) Where an applicant or operator appeals to the Review Board in accordance with subsection 1, the Review Board shall hear the appeal by way of a hearing de novo to determine whether the licence or registration should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Review Board considers proper and, for such purpose, the Review Board may substitute its opinion for that of the Director.
- (4) Notwithstanding that an applicant or operator has pending appealed under this section, from a decision of the of appeal

Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

11.—(1) The Director, the appellant and such other persons as the Review Board may specify are parties to the proceedings before the Review Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Review Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Review Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (4) The findings of fact of the Review Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

(5) No member of the Review Board shall participate in a decision of the Review Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Review Board shall be given unless all members so present participate in the decision.

Only members at hearing to participate in decision

12.—(1) Any party to the hearing before the Review Board may appeal from the decision of the Review Board to the Supreme Court in accordance with the rules of court.

Minister entitled to

Appeal to court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.



SECTION 7.

- 1. It is proposed that the power presently conferred on the Director to cancel contracts of apprenticeship be made subject to the right of a party to the contract to require a hearing by the judge of the county or district court.
- 2. Provisions governing the granting of certificates of apprenticeship or qualification now contained in the regulations are transferred to the Act.
- Grounds for refusal to renew or suspension or revocation of certificates are specified in the Act.
- 4. The Director is required to serve notice of a proposal to refuse to renew or to suspend or revoke a certificate and the holder of the certificate is entitled to apply to a judge of the county or district court for a hearing.
- 5. Procedural provisions supplementing The Statutory Powers Procedure Act, 1971 are proposed.
 - 6. An appeal lies from a decision of a judge to the Divisional Court.

- (3) The chairman of the Review Board shall certify to Record to the Registrar of the Supreme Court the record of in court the proceedings before the Review Board which, together with a transcript of the evidence before the Review Board, if it is not part of the Review Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on Powers of questions of law or fact or both and the court may appeal confirm or alter the decision of the Review Board or direct the Director to do any act the Director is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Review Board.
- (5) Notwithstanding that an applicant or licensee has Effect of appealed under this section, from a decision of the Board Review Board, unless the Review Board otherwise disposal directs, the decision of the Review Board is effective of appeal until the appeal is disposed of.
- 7.—(1) Section 1 of The Apprenticeship and Tradesmen's 1964, c. 3, Qualification Act, 1964 is amended by adding thereto the amended following clauses:
 - (aa) "certified trade" means a trade designated as a certified trade under section 10;
 - (ca) "licence" means a licence under this Act and the regulations to operate a trade school and "licensee" means the holder of a licence.
- (2) Clause a of subsection 1 of section 7 of The Apprentice-1964, c. 3, ship and Tradesmen's Qualification Act, 1964 is amended by cl. a, inserting after "inspect" in the first line "upon production of his authorization under this subsection".
 - (3) Clause e of subsection 1 of the said section 7 is repealed. c.s., subs. 1, repealed. cl. e, repealed.
- (4) The Apprenticeship and Tradesmen's Qualification Act, 1964, c. 3, amended 1964 is amended by adding thereto the following sections:
 - 7a.—(1) Subject to subsection 2, the Director, or any Cancellation person authorized by the Minister in writing, may cancel for cause a contract of apprenticeship.

Notice of proposal to cancel, right to hearing (2) Where the Director, or any person authorized under subsection 1, proposes to cancel for cause a contract of apprenticeship under subsection 1, he shall serve notice of his proposal, together with written reasons therefor, on each party to the contract informing him that he has a right to a hearing by a judge if he applies therefor within fifteen days after service of such notice, and a party to the contract may within such time apply for a hearing to the judge of the county or district court of the county or district where the apprentice who is a party to the contract resides.

Powers of Director where no hearing (3) Where none of the parties to a contract to which a notice under subsection 2 relates, applies to a judge for a hearing within fifteen days after service of such notice, the Director or person authorized under subsection 1 may forthwith cancel the contract.

Powers of judge where hearing

(4) Where a party to a contract to which a notice under subsection 2 relates, applies to a judge for a hearing within fifteen days after service of such notice, the judge shall appoint a time for and hold a hearing and on application at the hearing by the Director or person serving the notice, may by order direct the Director or such person to cancel the contract or to refrain from cancelling the contract, as the case may be, and as the judge considers proper in accordance with this Act and the regulations.

Parties

(5) The Director or person serving the notice under subsection 1, the parties to the contract to which the notice relates and such other persons as the judge may specify are parties to proceedings before the judge under this section.

Certificate of apprenticeship 16a. Where an apprentice has completed an apprenticeship training programme for a certified trade and has passed such final examinations as are prescribed by the Director to determine his competency and has complied with the provisions of this Act and the regulations, the Director shall issue to him a certificate of apprenticeship for the certified trade.

Certificate of qualification, to holder of certificate of apprenticeship 16b.—(1) Where an applicant for a certificate of qualification for a certified trade is the holder of a certificate of apprenticeship in the trade issued under this Act or a predecessor of this Act, the Director shall,

upon payment of the prescribed fee and without examination, issue to him a certificate of qualification for the trade.

- (2) Where an applicant for a certificate of qualification To non-holder of for a certified trade who is not the holder of a certificate of a certificate of a certificate of apprentice-distribution of the certificate of apprentice-distribution of the certificate of apprentice-distribution of the certificate of the ce ficate of apprenticeship in the trade has complied ship with the requirements of this Act and the regulations to entitle him to such certificate of qualification, the Director shall, upon payment of the prescribed fee, issue to him a certificate of qualification for the certified trade.
- 16c.—(1) Unless otherwise prescribed by regulation, a Term of certificate certificate of qualification expires two years after the date of its issue.
 - (2) Subject to section 16d, a certificate of qualification Renewal shall be renewed by the Director upon application and payment of the prescribed fee by the holder.
- 16d. Subject to section 16f, the Director may refuse to Refusal renew or may suspend or revoke a certificate of suspension or revocaqualification where,
 - (a) the holder is convicted of an offence under this Act or the regulations; or
 - (b) there are reasonable grounds for believing that the holder is without capacity or not competent to perform work in the certified trade to which the certificate relates with reasonable skill.
- 16e. Where under the regulations a licence is required Suspension, for the operation of a trade school teaching any trade school licence trade to which this Act applies and a licence for a trade school has been issued thereunder, subject to section 16f, the Director may refuse to renew or may suspend or revoke the licence where the school is not being operated.
 - (a) in accordance with this Act and the regulations: or
 - (b) so as to provide reasonable and adequate training for the students taught therein.
- 16f.—(1) Where the Director proposes to refuse to renew Proposal to suspend, or to suspend or revoke a certificate of qualification etc., licence

or a licence under section 16d or 16e, he shall serve notice of his proposal, together with written reasons therefor, on the holder of the certificate or licensee.

Notice

(2) A notice under subsection 1 shall inform the holder of the certificate or licensee that he is entitled to a hearing by a judge of the county or district court for the county or district in which he resides if he applies to a judge thereof within fifteen days after the notice under subsection 1 is served on him and he may so apply for such a hearing.

Powers of Director where no hearing (3) Where a holder of a certificate or licensee does not apply to a judge for a hearing in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of judge where hearing

(4) Where a holder of a certificate or licensee applies to a judge for a hearing in accordance with subsection 2, the judge shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may, by order, direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the judge considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Director.

Continuation of certificate or licence pending renewal

- (5) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his certificate of qualification or licence, a holder of the certificate or the licensee has applied for renewal thereof and paid the prescribed fee, the certificate or licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision.

Parties

(6) The Director, the holder of a certificate or licensee who has applied for the hearing and such other persons as the judge may specify are parties to proceedings before a judge under this section.

Service of notice 16g.—(1) Service of a notice under section 7a or section 16f may be made personally or by registered mail

addressed to the person to be served at his last known address, and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

- (2) A judge to whom application is made for a hear-extension ing under section 7a or section 16f may extend the for appeal time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are prima facie grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.
- (3) Notice of a hearing under section 7a or 16f shall Notice of afford the parties or the holder of a certificate or licence, as the case may be, a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the continuation of the contract of apprenticeship or retention of the certificate of qualification or licence.
- (4) A party to a contract of apprenticeship or a holder Examination of a certificate of qualification or licensee who is a mentary party to proceedings under section 7a or 16f shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- (5) The oral evidence taken before the judge at a hear-Recording ing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (6) The findings of fact of a judge pursuant to a hear-findings ing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Appeal to

16h.—(1) Any party to proceedings before a judge under this Act may appeal from the decision or order of the judge to the Supreme Court in accordance with the rules of court.

Record to be filed in court (2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made which, together with the transcript of the evidence before the judge, if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

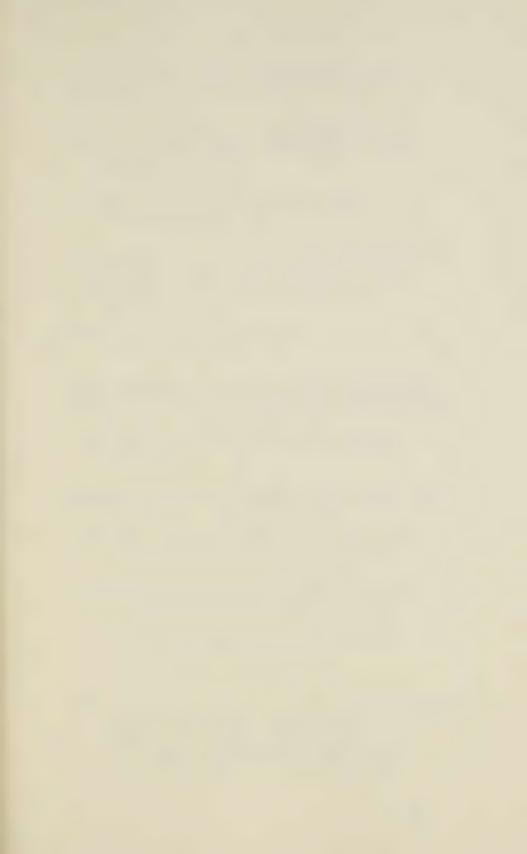
Powers of court on appeal (4) The Supreme Court may affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations, and may order the Director to do any act or thing he is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

1964, c. 3,s. 18, cl. *f*, re-enacted

- (5) Clause f of section 18 of The Apprenticeship and Tradesmen's Qualification Act, 1964 is repealed and the following substituted therefor:
 - (f) providing licences for trade schools teaching any trade to which this Act applies and respecting their issue and prescribing courses of study and methods of training in such trade schools and respecting their operation.

1964, c. 3, s. 18, cl. *l*, re-enacted

- (6) Clause l of the said section 18 is repealed and the following substituted therefor:
 - (l) providing for Interprovincial Standards Examinations and standing thereunder and for the recognition of certificates or standings granted under Inter-



Section 8. The present Act provides for the designation of land as an archaeological site or an historical site without notice to the owner or payment of any compensation. The amendments,

- restrict the power of designation to land not including buildings or structures;
- 2. specify the purposes for which the Minister may designate land;
- require notice to the owner and a hearing by the advisory board before the Minister makes his decision;
- authorize the Minister in urgent cases to make an immediate designation, but a hearing is required thereafter;
- 5. provide for compensation;
- 6. where the Minister cancels a permit to excavate a site, entitle the permittee to a hearing by the advisory board and reconsideration by the Minister.

provincial Standards Examinations in other provinces and the granting of certificates of qualification pursuant thereto;

- (la) providing for the granting of provisional certificates of qualification and the grounds therefor and the conditions thereof;
- (lb) respecting the renewal of certificates of qualification that have expired without being renewed and the conditions of renewal;
- (lc) providing for the issue of certificates of qualification or licences to persons whose certificates or licences have been cancelled and the conditions upon which they may be issued.
- (7) Clause r of the said section 18 is repealed.

1964, c. 3, s. 18, cl. *r*, repealed

- **8.**—(1) Section 1 of *The Archaeological and Historic Sites* $^{\text{R.S.O. 1960}}_{\text{c. 19, s. 1,}}$ *Protection Act* is amended by adding thereto the following $^{\text{amended}}_{\text{clause}}$:
 - (da) "land" does not include buildings or structures other than ruins.
- (2) Section 2 of *The Archaeological and Historic Sites Pro-* $^{R.S.O.\ 1960}_{c.\ 19,\ s.\ 2,}$ *tection Act* is repealed and the following substituted therefor: $^{re-enacted}$
 - 2. Subject to sections 2a and 2b, the Minister may Designation designate any land that he has reasonable grounds for believing to be of value for the purposes of,
 - (a) the promotion or advancement of archaeological research and knowledge; or
 - (b) the protection and preservation of historical associations and knowledge,

to be an archaeological or an historic site.

2a.—(1) Subject to section 2b, where the owner of any Reference to land does not consent to its designation as an archae-board ological site or as an historic site, the Minister shall, before designating it under section 2, refer the matter to the advisory board established under section 9 for a hearing and report.

Hearing

(2) Pursuant to a reference by the Minister under this section, the advisory board shall forthwith hold a hearing as to whether the land in question should be designated under section 2 and the Minister, the owner or any person having an interest in the land and such other persons as the advisory committee may specify are parties to the hearing.

Application of 1971, c. ...

(3) Sections 6 to 16 and 21 to 23 of *The Statutory Powers Procedure Act, 1971* apply *mutatis mutandis* with respect to a hearing under this section.

Report

(4) The advisory board shall, at the conclusion of a hearing under this section, make a report to the Minister setting out its findings of fact and any information or knowledge used by it in reaching its recommendations, and its recommendations as to whether the land should be designated under section 2, and shall send a copy of its report to other parties to the hearing.

Decision of Minister (5) After considering a report made under this section, the Minister may designate the land in question under section 2 and shall give notice of his decision to the owner and any person interested in the land stating the reasons therefor.

Designation of site on grounds of urgency 2b.—(1) Where the Minister has reasonable grounds for believing that any land is of value for the purposes specified in section 2 and that it is urgent to protect the land for such purposes, he may forthwith designate such land as an archaeological site or as an historic site and cause notice in writing of such designation stating the reasons therefor to be given to the owner of such land or to any other person, and such designation shall be effective forthwith in relation to any person to whom such notice has been given or who has knowledge of it.

Notice of designation

(2) A notice under subsection 1 may be delivered personally to any person or may be sent by telegram addressed to such person and a copy of such notice may be posted on the land to which it relates and when so posted every person occupying or present on such land shall be presumed to have knowledge of the notice.

- (3) The Minister may by order appoint one or more Investigation persons to make an investigation to ascertain whether hearing any lands designated under this section are of value for the purposes specified in section 2 and shall forthwith refer the matter to the advisory board appointed under section 9 for a hearing and report.
- (4) A person appointed under subsection 3 may enter Powers of upon and inspect the lands designated under subsection 1.
- (5) No person shall obstruct a person appointed under Obstruction subsection 3 in conducting his investigation or with-holding of information hold or destroy or conceal or refuse to furnish any information or thing required by the person conducting the investigation for the purposes of the investigation.
- (6) A person conducting an investigation under this Report of section shall, as promptly as is practicable, report the result of his investigation to the Minister and to the advisory board and the advisory board shall thereupon hold a hearing and the provisions of subsections 2 to 5 of section 2a apply to the proceedings of the advisory board.
- (7) Unless sooner revoked by the Minister, a designation Effect of made under this section shall be effective until sixty days after the advisory board makes its report to the Minister, but the Minister may, prior to that time, designate the lands under section 2.
- 2c. Where land is designated under section 2 or 2b and compensation no agreement as to the terms and conditions upon which the designation is made, including payment of compensation, if any, has been reached by the Minister with the owner, the owner shall be entitled to compensation,
 - (a) for any reduction in market value of the land designated;
 - (b) for any reduction in the market value of any land contiguous to the lands designated owned by the owner or used under unified control with the lands designated by the owner; and

(c) for any personal or business damages, resulting from the designation,

1968-69, c. 36

and the provisions of *The Expropriations Act*, 1968-69, with respect to the negotiation, payment and fixing of compensation, apply *mutatis mutandis* as if the designation and the resulting restrictions imposed by this Act were an expropriation of rights.

R.S.O. 1960, c. 19, s. 4, subss. 2, 3, re-enacted (3) Subsections 2 and 3 of section 4 of *The Archaeological and Historic Sites Protection Act* are repealed and the following substituted therefor:

Terms and conditions

(2) The Minister may limit the time during which, or the location or area in which, excavations or alterations may be made under a permit and may impose other terms and conditions for the purposes specified in section 2 for the protection of archaeological or historic sites or archaeological or historical objects.

Cancellation of permit

(3) Subject to subsection 4, the Minister may cancel a permit at any time where he has reasonable grounds for believing it is advisable for the protection of archaeological or historic sites or archaeological or historical objects.

Reference to advisory board for hearing (4) Where the Minister cancels a permit under subsection 3, he shall forthwith notify the permittee in writing of the cancellation and of the reasons therefor, and if the permittee requests a hearing within ten days after receiving notice of the cancellation, the Minister shall refer the matter to the advisory board appointed under section 9 for a hearing and report, and subsections 2 to 5 of section 2a apply mutatis mutandis to the proceedings thereafter and, after considering the report of the advisory board, the Minister may affirm or rescind cancellation of the permit.

1962-63, c. 5, s. 1, amended **9.**—(1) Section 1 of *The Artificial Insemination of Cattle Act, 1962-63* is amended by adding thereto the following clauses:

(aa) "Board" means the Artificial Insemination of Cattle Licence Review Board established by this Act;

SECTION 9.

- 1. An applicant for a licence to engage in a semen-producing business, or to act as an inseminator, is given a right to a licence subject to refusal on specific grounds set out in the Act.
- 2. The grounds upon which the Live Stock Commissioner may refuse to renew or may suspend or cancel a licence are specified.
- 3. The Commissioner is given power provisionally to refuse to renew or to suspend a licence where it is necessary for the immediate protection of the safety or health of any animal.
- 4. Where a licensee has duly applied for a renewal of his licence it continues until his application is disposed of.
- 5. The Commissioner may after a hearing refuse to issue or renew or suspend or revoke a licence.
 - 6. The Commissioner may at any time review his own decision.
 - 7. A Licence Review Board is established.
- 8. Where the Commissioner refuses to issue or renew or suspends or cancels a licence, the applicant or licensee may appeal to the Board which is required to hold a hearing *de novo* and may give directions to the Commissioner.
- 9. Procedural provisions supplementing *The Statutory Powers Procedure Act*, 1971 are proposed.
- 10. An appeal lies from a decision of the Board to the Divisional Court on any question that is not a question of fact alone.

The amendments proposed to this Act correspond to similar amendments proposed to the following Acts by the following sections of this Bill:

The Animals for Research Act, 1968-69	Section 6
The Dead Animal Disposal Act	Section 26
The Edible Oil Products Act	Section 34
The Live Stock Community Sales Act	Section 54
The Live Stock and Live Stock Products Act	Section 53
The Meat Inspection Act	Section 57
The Oleomargarine Act	Section 61
The Plant Diseases Act	Section 68
The Pregnant Mare Urine Farms Act, 1968-69	Section 69
The Provincial Auctioneers Act	Section 70
The Weed Control Act	Section 88



- (ea) "licence" means a licence under this Act.
- (2) Section 8 of *The Artificial Insemination of Cattle Act*, 1962-63, 1962-63 is repealed and the following substituted therefor: re-enacted
 - 8.—(1) The Commissioner shall issue a licence to a Licence, person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the operations that would be authorized by the licence;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the operations that would be authorized by the licence will not be carried on in accordance with law;
 - (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the operations that would be authorized by the licence in accordance with this Act and the regulations; or
 - (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
 - (2) Subject to section 8a, the Commissioner shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - 8a.—(1) The Commissioner may refuse to renew or may Refusal to suspend or cancel a licence if, after a hearing, he is suspension of opinion that,

- (a) the premises, facilities and equipment used in the operations authorized by the licence do not comply with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant there of has contravened or has permitted any person under his control or direction in connection with the operations authorized by the licence to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the operations authorized by the licence and such contravention warrants such refusal to renew, suspension or cancellation of the licence; or
- (c) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the Commissioner, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any animal and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where, within the time prescribed or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

Notice of

8b.—(1) The notice of a hearing by the Commissioner under section 8 or section 8a shall afford to the applicant or licensee a reasonable opportunity to

show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

- (2) An applicant or licensee who is a party to proceed-Examination ings in which the Commissioner holds a hearing mentary shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 8c. Where the Commissioner has refused to issue or Variation of renew or has suspended or cancelled a licence pur-Commissuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.
- 8d.—(1) A board to be known as the "Artificial In-Review semination of Cattle Licence Review Board" is hereby established established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
- (2) A member of the Board shall hold office for not $^{\text{Term of}}_{\text{office}}$ more than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remuneramuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to Board 8e.—(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board.

Extension of time for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1 either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Disposal of appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

Effect of decision pending disposal of appeal (4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of.

Parties

8f.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the

nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Board at a hear-Recording ing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.
- (5) No member of the Board shall participate in a only decision of the Board pursuant to a hearing unless at hearing he was present throughout the hearing and heard in decision the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 8g—(1) Any party to the hearing before the Board may Appeal to appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under to be heard this section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and the appeal court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the

Board as the court considers proper, and the court may substitute its opinion for that of the Commissioner or the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

1960-61, c. 5, s. 1, amended

- 10.—(1) Section 1 of *The Bailiffs Act, 1960-61*, as amended by section 1 of *The Bailiffs Amendment Act, 1964*, is further amended by adding thereto the following clause:
 - (aa) "business premises" does not include a dwelling.

1960-61, c. 5, s. 1, cl. ca (1964, c. 5, s. 1), of *The Bailiffs Amendment Act*, 1964, is repealed and the following substituted therefor:

- (ca) "Director" means the Director of the Consumer Protection Division of the Department of Financial and Commercial Affairs;
- (cb) "dwelling" means any premises or any part thereof occupied as living accommodation;

1968-69, c. 11

(cc) "Registrar" means the Registrar of Collection Agencies under The Collection Agencies Act, 1968-69.

1960-61, c. 5, s. 1, amended (3) The said section 1 is further amended by adding thereto the following clause:

1966, c. 41

(f) "Tribunal" means the Commercial Registration Appeal Tribunal established under The Department of Financial and Commercial Affairs Act, 1966.

1960-61, c. 5, s. 7, amended (4) Section 7 of *The Bailiffs Act, 1960-61*, as amended by section 2 of *The Bailiffs Amendment Act, 1964*, is further amended by striking out "Director" in the amendment of 1964 and inserting in lieu thereof "Registrar".

1960-61, c. 5, s. 9, re-enacted (5) Section 9 of *The Bailiffs Act*, 1960-61, as amended by section 1 of *The Bailiffs Amendment Act*, 1965, is repealed and the following substituted therefor:

Section 10. The Department of Financial and Commercial Affairs Act, 1966, transferred administration of this Act from the Attorney General to the Minister of Financial and Commercial Affairs.

Under the Act, bailiffs are appointed by the Lieutenant Governor on the recommendation of the Minister of Financial and Commercial Affairs on application therefor, and upon complying with the requirements of the Act including an examination, and if a bailiff is needed for the public convenience in the county for which he is to be appointed. The appointment of a bailiff may be revoked by the Lieutenant Governor on the recommendation of the Minister of Financial and Commercial Affairs.

The amendments substitute the Registrar of Collection Agencies of the Department of Financial and Commercial Affairs for the former Director of Registration and Examination Branch of the Department of Justice.

They then assimilate the proceedings for revocation of the appointment of a bailiff with the general procedure applicable in the Department of Financial and Commercial Affairs to the revocation of registrations (see paragraphs 2 and 3 of the explanatory note to section 21). (*The Collection Agencies Act, 1968-69*).



- 9. Subject to section 9a, the Registrar may revoke an Revocation appointment where the bailiff,
 - (a) has not complied with this Act or the regulations or *The Costs of Distress Act*; or R.S.O. 1960, c. 74
 - (b) is, in the opinion of the Registrar, incompetent or without capacity to act responsibly as a bailiff.
- 9a.—(1) Where the Registrar proposes to revoke an Notice of appointment, he shall serve notice of his proposal, to revoke together with written reasons therefor, on the bailiff.
- (2) A notice under subsection 1 shall inform the bailiff Notice requiring that he is entitled to a hearing by the Tribunal if he hearing mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where a bailiff does not require a hearing by the Powers of Registrar Tribunal in accordance with subsection 2, the where no Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where a bailiff requires a hearing by the Tribunal Powers of Tribunal in accordance with subsection 2, the Tribunal shall where appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take.
- (5) The Registrar, the bailiff who has required the hear-Parties ing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
- (6) The Registrar may serve notice under subsection 1 Service on a bailiff personally or by registered mail addressed to his address last known to the Registrar and, where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the bailiff on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Order effective notwithstanding appeal 1966, c. 41 9b. Notwithstanding that a bailiff appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.

1960-61, c. 5, s. 10, subs. 2, amended (6) Subsection 2 of section 10 of *The Bailiffs Act*, 1960-61, as amended by section 3 of *The Bailiffs Amendment Act*, 1964, is further amended by striking out "Director" in the amendment of 1964 and inserting in lieu thereof "Registrar".

1960-61, c. 5, s. 10*a* (1964, c. 5, s. 4), subs. 2, amended (7) Subsection 2 of section 10a of *The Bailiffs Act*, 1960-61, as enacted by section 4 of *The Bailiffs Amendment Act*, 1964, is amended by striking out "Director" in the second line and inserting in lieu thereof "Registrar".

1960-61, c. 5, s. 10a, subs. 4 (1966, c. 11, s. 1), amended (8) Subsection 4 of the said section 10a, as enacted by section 1 of *The Bailiffs Amendment Act*, 1966, is amended by striking out "Director" in the first line and in the third line and inserting in lieu thereof in each instance "Registrar".

1960-61, c. 5, s. 10*a*, subs. 5 (1966, c. 11, s. 1), re-enacted (9) Subsection 5 of the said section 10a, as enacted by section 1 of *The Bailiffs Amendment Act*, 1966, is repealed and the following substituted therefor:

Investigation

(5) The Registrar may appoint in writing a person to investigate the business of a bailiff as a bailiff and any such person, upon the production of evidence of his appointment under this subsection, may enter between 9 o'clock in the forenoon and 5 o'clock in the afternoon the business premises of the bailiff and examine books, papers, documents and things relating to his business as a bailiff.

Obstruction of investigator

(5a) No person shall obstruct a person appointed to make an investigation under subsection 5 or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

1960-61, c. 5, s. 12, subs. 1, amended (10) Subsection 1 of section 12 of *The Bailiffs Act*, 1960-61 is amended by inserting after "9" in the second line "or 9a".

1960-61, c. 5, amended (11) The Bailiffs Act, 1960-61 is amended by adding thereto the following section:

Matters confidential 13a. Every person employed in the administration of this Act, including any person making an examination under section 10a shall preserve secrecy in respect of all matters that come to his knowledge in the course



SECTION 11.

- 1. Under this Act a licence is required to move sand from beaches. The Minister is empowered to issue, suspend or cancel any licence but no principles are stated to govern his decision. The amendments distinguish between Crown lands and privately owned lands. The Minister may refuse a licence to remove sand from Crown lands on any ground. He may refuse a licence to remove sand from privately owned lands on specified grounds. The grounds upon which he may refuse to renew or may suspend or revoke a licence are specified.
- 2. In general, before refusing to issue a licence to remove sand from privately owned lands or refusing to renew or suspending or revoking any licence, the matter is to be referred to the Mining Commissioner for a hearing and report. Since the hearing is advisory only, the relevant provisions of *The Statutory Powers Procedure Act*, 1971 are expressly made to apply.
- The Minister is empowered provisionally to refuse renewal of or to suspend a licence in emergency cases with a hearing to take place thereafter.
- 4. The present section shifting the general burden of proof to an accused is restricted to requiring him to prove that he has a licence only after proof of facts that would constitute an offence if he has no licence.
- 5. The authority to impose a charge for sand removed is restricted in accordance with present practice to sand taken from Crown lands as otherwise it would be an indirect tax.

of his duties, employment or examination and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (12) Clause d of section 15 of The Bailiffs Act, 1960-61 is c. 5, s. 15, repealed.
- **11.**—(1) Subsection 1 of section 2 of *The Beach Protection* R.S.O. 1960, *Act* is amended by striking out "and may suspend or cancel subs. 1, amended any licence" in the fifth and sixth lines.
- (2) The Beach Protection Act is amended by adding thereto $^{\rm R.S.O.~1960}_{\rm c.~31,}$ the following sections:
 - 2a.—(1) The Minister may refuse to issue a licence to Refusal to take sand from a bed, bank, beach, shore, waters, licence bar or flat mentioned in subsection 1 of section 2 that is the property of the Crown on any ground upon which he considers it to be contrary to the public interest to issue the licence.
 - (2) Subject to section 9, where a bed, bank, beach, Idem shore, waters, bar or flat mentioned in subsection 1 of section 2 is owned by a person other than the Crown, the owner or a person who has acquired from the owner the right to remove sand therefrom, is entitled to be issued a licence by the Minister unless the Minister is of opinion that,
 - (a) the taking or removal of sand therefrom is contrary to the public interest on the ground that it will,
 - (i) unduly impair or interfere with the natural state or use of waters or the value or use of property,
 - (ii) likely cause undue erosion of or accretion to lands, or

(iii) likely create a threat to roads, rightsof-way, structures or installations or to health or safety,

in the place from which the sand is to be taken or the area adjacent or near to such place; or

(b) the equipment that the applicant proposes to use for removal of the sand is not proper or suitable for such purpose.

Suspension, etc., of licence

- (3) The Minister may, in accordance with section 2b, refuse to renew or may suspend or revoke a licence,
 - (a) if the licensee has contravened or failed to comply with the terms and conditions of the licence; or
 - (b) on any grounds upon which he might refuse to issue the licence if application was being made for it in the first instance.

Reference to Mining Commissioner

R.S.O. 1960, c. 241 2b.--(1) Subject to subsection 7, before refusing to issue a licence under subsection 2 of section 2a or to renew any licence or before suspending or revoking any licence, the Minister shall refer the matter to the Mining Commissioner appointed under *The Mining Act* for a hearing and report.

Hearing

(2) Pursuant to a reference by the Minister under this section, the Mining Commissioner shall hold a hearing as to whether the licence to which the hearing relates should be issued or renewed or should be suspended or revoked, as the case may be, and the applicant or licensee and such other person as the Commissioner specifies shall be parties to the hearing.

Application of 1971, c. . . . ss. 6-16, 21-23

(3) Sections 6 to 16 and 21 to 23 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section.

Assistance for Commissioner (4) The Mining Commissioner may obtain the assistance of engineers, surveyors or other scientific persons who may under his order view and examine the property in question, and in making his report he may give such weight to their opinion or report as he considers proper.

Report of Commissioner (5) At the conclusion of a hearing under this section, the Mining Commissioner shall make a report to the

Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations, any conclusions of law he has arrived at relevant to his recommendations and his recommendations as to the issue, renewal, suspension or revocation of the licence to which the hearing relates, as the case may be, and shall send a copy of his report to the applicant or licensee to whom it relates.

(6) After considering the report of the Mining Commis-Decision of Minister sioner under this section, the Minister may thereupon refuse to issue or to renew or may suspend or revoke the licence to which the report relates and shall give notice of his decision to the applicant or licensee specifying the reasons therefor.

(7) Notwithstanding subsection 1, the Minister, by notice Provisional to a licensee and without referring the matter to the etc. Mining Commissioner for a hearing, may provisionally refuse renewal of, or suspend the licensee's licence where the continuation of operations under the licence is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice, giving his reasons therefor, and the Minister shall forthwith thereafter refer the matter to the Mining Commissioner and the provisions of subsections 1 to 6 shall apply.

- (3) Section 13 of The Beach Protection Act is repealed and R.S.O. 1960, c. 31, s. 13, the following substituted therefor: re-enacted
 - 13. Where it is proved in any prosecution under this Act Burden of that the accused has done or committed any act or thing for which a licence or the consent of any person or persons is required under this Act, the burden of proving that the required licence was issued or consent was given shall rest upon the accused.
- (4) Subsection 1 of section 14 of *The Beach Protection Act* is R.S.O. 1960, pealed and the following substituted therefor: repealed and the following substituted therefor:
 - (1) A person to whom a licence to take sand from Royalties property of the Crown in right of Ontario is issued may be required to pay to the Crown, in addition to his licence fee, a fixed sum for every yard of sand removed under the authority of the licence.
- (5) Clause d of section 16 of The Beach Protection Act is c. 31, s. 16, cl. d, repealed.

R.S.O. 1960, c. 33, s. 5, subss. 1, 2, re-enacted **12.**—(1) Subsections 1 and 2 of section 5 of *The Bees Act* is repealed and the following substituted therefor:

Destruction or treatment of infected bees

- (1) Where an inspector has reasonable grounds for believing that disease of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing,
 - (a) require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires; or
 - (b) require the bee-keeper to destroy by fire, within such period as the order requires, such bees, hives or equipment as in the opinion of the inspector cannot be disinfected.

Treatment of infected bees (2) Where an inspector has reasonable grounds for believing that disease not of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires.

R.S.O. 1960, c. 33, s. 5, subs. 4, re-enacted (2) Subsection 4 of the said section 5 is repealed and the following substituted therefor:

Order

(4) Every order under this section shall be delivered to the bee-keeper by an inspector or mailed by prepaid mail to his last or usual place of abode and shall contain notice to the bee-keeper that he may appeal from the order to the Provincial Apiarist within five days after receipt of the order and where the order is mailed, the bee-keeper shall be deemed to have received the order on the third day after the day of mailing unless he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the order until a later date.

R.S.O. 1960, c. 33, s. 7, subs. 2, re-enacted (3) Subsection 2 of section 7 of *The Bees Act* is repealed and the following substituted therefor:

Appeal

(2) An appeal under this section may be made in writing or orally or by telephone to the Provincial Apiarist, but the Provincial Apiarist may require the grounds for appeal to be specified in writing before the hearing.

Section 12. The powers of an inspector to act where he is of opinion that disease exists are restricted to where he has reasonable grounds for believing that disease exists.

Provision is made for the service of orders and procedure on appeals.

Section 13. The amendments make clear the application of *The Statutory Powers Procedure Act*, 1971 and the procedure on appeals.

- (3) Upon being notified of an appeal, the Provincial Hearing Apiarist shall, after a hearing, confirm, revoke or modify the order appealed against and shall notify the appellant of his decision by prepaid mail and the appellant shall carry out such order as is given by the Provincial Apiarist in his decision.
- (4) The bee-keeper and the inspector who made the Parties order appealed from are parties to an appeal under this section.
- **13.**—(1) Section 4 of *The Boundaries Act* is repealed.

R.S.O. 1960, c. 38, s. 4, repealed

- (2) The Boundaries Act is amended by adding thereto the R.S.O. 1960, following section:
 - 11a.—(1) The applicant, any person who delivers a state-Parties ment of objections under section 11 and such other person as the director may specify are parties to the proceeding for the confirmation of the survey and plan.
 - (2) Notwithstanding *The Statutory Powers Procedure Act*, Notice of 1971, the publication of and the giving of notice in 1971, c. . . . accordance with subsection 1 of section 10 is a sufficient compliance with section 6 of that Act.
- (3) Subsection 6 of section 12 of *The Boundaries Act*, as R.S.O. 1960, enacted by section 5 of *The Boundaries Amendment Act*, subs. 6 (1961-62, is repealed and the following substituted therefor: c. 9, s. 5), re-enacted reconstructions:
 - (6) In addition to giving notice of his decision to the Publication parties in accordance with *The Statutory Powers Pro-*confirmation cedure Act, 1971, the director shall cause notice of the confirmation to be published in *The Ontario Gazette*.
 - (7) The oral evidence taken before the director at a hear-Recording ing shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon payment of the prescribed fees.
- (4) Subsection 2 of section 13 of *The Boundaries Act* is R.S.O. 1960, c. 38, s. 13, subs. 2, re-enacted

 - (5) Clause e of section 21 of The Boundaries Act is repealed. repealed.

R.S.O. 1960, c. 48, s. 2 (1961-62, c. 13, s. 1), s. 3, repealed 14.—(1) Section 2, as re-enacted by section 1 of *The Certification of Titles Amendment Act*, 1961-62, and section 3 of *The Certification of Titles Act* are repealed.

R.S.O. 1960, c. 48, s. 7, subs. 1, cls. c, d, re-enacted

- (2) Clauses c and d of subsection 1 of section 7 of *The Certification of Titles Act* are repealed and the following substituted therefor:
 - (c) to be served on,
 - (i) the owner, mortgagee or chargee, or his assignee, of land adjoining the land of the applicant,
 - (ii) any person shown in the application to have a claim adverse to the claim of the applicant,
 - (iii) any person other than the applicant shown in the application to be in possession of the land, and
 - (iv) such other person as the Director of Titles may specify.

R.S.O. 1960, c. 48, s. 7, subs. 2 (1961-62, c. 13, s. 2), re-enacted (3) Subsection 2 of section 7 of The Certification of Titles Act, as enacted by section 2 of The Certification of Titles Amendment Act, 1961-62, is repealed and the following substituted therefor:

Service of notice

(2) A notice to be served on the owner, mortgagee or chargee, or his assignee, of the land adjoining the land of the applicant under subclause i of clause c of subsection 1 is sufficiently served if it is sent by registered mail addressed to him at the address furnished under section 176 of *The Land Titles Act* or section 45 of *The Registry Act* or, where no such address has been furnished, addressed to the solicitor whose name appears on the conveyance, mortgage or charge, or assignment thereof, under which he appears to have an interest in such adjoining land.

Idem

(3) Notice to be served on any person under subclauses ii, iii and iv of clause *c* of subsection 1 may be served in such manner as the Director of Titles considers proper.

R.S.O. 1960, c. 48, s. 8, subs. 2, re-enacted (4) Subsection 2 of section 8 of *The Certification of Titles Act* is repealed and the following substituted therefor:

Hearing

(2) Where a claim adverse to or inconsistent with the claim set out in an application is filed with the

SECTION 14.

- 1. The provisions relating to parties and service of notices of hearing are clarified.
- 2. The circumstances in which the Director of Titles is required to hold a hearing are specified.
 - 3. An appeal is provided to the Divisional Court.
- 4. The application of The Statutory Powers Procedure Act, 1971 is clarified.



Director of Titles, the Director, before refusing an application in whole or in part, shall afford an opportunity for a hearing.

- (3) The applicant, a person, if any, filing a claim adverse Parties to or inconsistent with the claim set out in the application and such other persons as the Director of Titles may specify are parties to the proceedings in which a hearing is held under this section.
- (4) The oral evidence taken before the Director of Titles Evidence at a hearing shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon the payment of the prescribed fees.
- (5) The Director of Titles, in the place of holding a Reference to hearing under this section to determine the validity Supreme of a claim adverse to or inconsistent with the claim set out in an application, may refer the determination to a judge of the Supreme Court who shall hear and determine the claim on the evidence before him or may direct the trial of an issue.
- (5) Subsection 3 of section 9 of *The Certification of Titles* R.S.O. 1960, Act is repealed and the following substituted therefor: subs. 3, re-enacted
 - (3) Any person aggrieved by the written findings of the Appeal Director of Titles may, within fifteen days after the date of the mailing of the copies under subsection 2, appeal to the Supreme Court, which may decide the matter on the evidence before it or may direct the trial of an issue.
- (6) The said section 9 is amended by adding thereto the $^{\rm R.S.O.~1960}_{\rm c.~48,~s.~9,}$ following subsection:
 - (6) Sections 17 and 18 of *The Statutory Powers Pro-*Certain cedure Act, 1971 do not apply to proceedings to of 1971, c. determine an application for a certificate of title under this Act.
- (7) Section 16 of *The Certification of Titles Act*, as re-enacted R.S.O. 1960, c. 48, s. 16 by subsection 1 of section 3 of *The Certification of Titles* (1970, c. 37, *Amendment Act*, 1970, is amended by adding thereto the amended following subsection:
 - (4a) Before refusing a claim for compensation under this Hearing section, in whole or in part, the Director of Land Registration shall hold a hearing, and the person

claiming compensation and such other persons as the Director of Land Registration may specify are parties to the proceedings.

R.S.O. 1960, c. 48, s. 18, cl. *h*, repealed (8) Clause h of section 18 of The Certification of Titles Act is repealed.

R.S.O. 1960, c. 50, s. 7, re-enacted **15.** Section 7 of *The Charitable Gifts Act* is repealed and the following substituted therefor:

Investigation

7.—(1) The Treasurer of Ontario may appoint any person to make an investigation for any purpose related to the administration or enforcement of this Act respecting any interest in any business that has been given to or vested in any person for any religious, charitable, educational or public purpose or respecting any person to or in whom any such interest has been given or vested.

Powers

1971, c. . . .

(2) Every person appointed under subsection 1 to make an investigation has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the investigation as if it were an inquiry under that Act.

1962-63, c. 11, s. 2 (1968, c. 11, s. 2), re-enacted

16.—(1) Section 2 of *The Charitable Institutions Act,* 1962-63, as re-enacted by section 2 of *The Charitable Institutions Amendment Act,* 1968, is repealed and the following substituted therefor:

Approval of corporations

R.S.O. 1960,

2. Where the Lieutenant Governor in Council is satisfied that any corporation without share capital having objects of a charitable nature to which Part III of *The Corporations Act* applies or that is incorporated under a general or special Act of the Parliament of Canada is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a charitable institution and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act.

1962-63, c. 11, s. 3, re-enacted (2) Section 3 of *The Charitable Institutions Act, 1962-63*, as amended by section 3 of *The Charitable Institutions Amendment Act, 1968*, is repealed and the following substituted therefor:

Section 15. The powers of investigation are limited to purposes related to the administration of the Act and are conferred by reference to *The Public Inquiries Act*, 1971.

Section 16. Principles are stated to govern the decision of the Lieutenant Governor in Council in giving approval of a corporation to operate a charitable institution and of buildings for the institution. Grounds for suspension or revocation of an approval are set out. A procedure requiring that an inquiry be held before suspension or revocation is proposed.



- 3.—(1) Where the Lieutenant Governor in Council is Approval of buildings satisfied that a building is suitable for providing accommodation as a charitable institution in accordance with this Act and the regulations, he may approve such building as a charitable institution for the maintenance and operation of which assistance may be given under this Act.
- (2) An approval given under subsection 1 may take Effective date of effect on any date fixed by the Lieutenant Governor approval in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the charitable institution.
- (3) Section 10 of *The Charitable Institutions Act, 1962-63* is 1962-63, c. 11, s. 10, pealed and the following substituted therefor: repealed and the following substituted therefor:
 - 10.—(1) Subject to this section, any approval given under Suspension this Act may be suspended by the Minister or retion of approvals voked by the Lieutenant Governor in Council on the recommendation of the Minister if.

- (a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or
- (b) the approval would be refused if application were being made for it in the first instance.
- (2) Subject to subsection 6 and except where an Hearing approval is suspended or revoked with the consent of the approved corporation, before suspending, or before recommending to the Lieutenant Governor in Council revocation of, an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Department of Social and Family Services, appointed by the Minister.
- (3) Sections 4 to 16 and 21 to 24 of The Statutory Application of 1971, c. . . . Powers Procedure Act, 1971 apply with respect to a hearing under this section.

Report to Minister (4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected.

Decision of Minister (5) After considering a report made to him under this section, the Minister may thereupon suspend or recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension of approval (6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

1962-63, c. 11, s. 11, cl. *n*, repealed (4) Clause n of section 11 of The Charitable Institutions Act, 1962-63 is repealed.

R.S.O. 1960, c. 52, s. 5, subs. 1, cl. *e*, repealed 17.—(1) Clause e of subsection 1 of section 5 of The Charities Accounting Act is repealed.

R.S.O. 1960, c. 52, s. 6, subs. 4, re-enacted (2) Subsection 4 of section 6 of *The Charities Accounting Act* is repealed and the following substituted therefor:

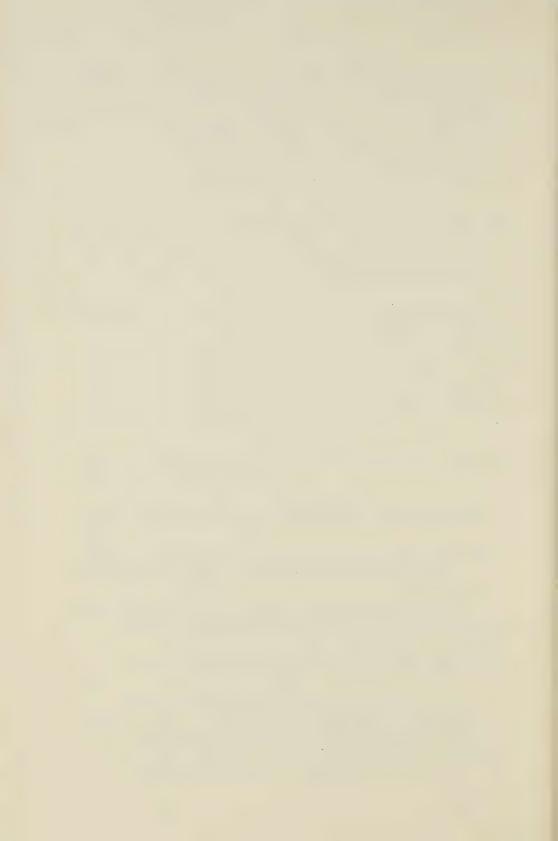
Powers of Public Trustee (4) In making an investigation directed under subsection 3, the Public Trustee has and may exercise any of the powers conferred on him by this Act and any of the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the investigation as if it were an inquiry under that Act.

R.S.O. 1960, c. 54, s. 1, amended 18.—(1) Section 1 of The Children's Boarding Homes Act, as amended by section 1 of The Children's Boarding Homes Amendment Act, 1962-63, is further amended by relettering clause a as clause aa and by adding thereto the following clauses:

Section 17. The reference in the present Act to The Public Inquiries Act is changed to The Public Inquiries Act, 1971.

SECTION 18.

- 1. Subject to certain specific grounds for refusal, an applicant is entitled to be registered as the operator of a children's boarding home and to renewal of his licence.
- 2. The Registrar may now fix the maximum number of children that may be accommodated. An appeal is provided from the Registrar to the Day Nursery Review Board.
- The grounds for refusal to register or renew or for revocation of registration are specified.
- 4. The Registrar is required to serve notice of a proposal to refuse to register or to renew registration or to revoke registration and the applicant or licensee may require a hearing by the Board.
- 5. Procedural provisions supplementing those in *The Statutory Powers Procedure Act*, 1971 are proposed.
 - 6. An appeal lies from a decision of the Board to the Divisional Court.



- (a) "Board" means the Day Nursery Review Board established under *The Day Nurseries Act*, 1966; 1966, c. 37
- (da) "occupier" means the occupier of a children's boarding home who applied for registration of the home under this Act.
- (2) Subsections 1 and 2 of section 6 of *The Children's Board*-R.S.O. 1960, ing *Homes Act* are repealed and the following substituted subss. 1, 2, re-enacted therefor:
 - (1) Subject to section 8, upon application in the pre-Registration scribed form and upon payment of the prescribed fee, the Registrar shall record in a register kept by him for the purpose the name and address of the applicant, the name, if any, and address of the children's boarding home, the date of registration and such other particulars as the regulations prescribe.
 - (2) Subject to section 8a, every registration remains in Idem force for twelve months and, upon application therefor in the prescribed form and upon payment of the prescribed fee, is renewable for a period of twelve months.
- (3) Subsection 2 of section 7 of *The Children's Boarding* $^{\rm R.S.O.~1960}_{\rm c.~54,~8.~7.}$ *Homes Act* is repealed and the following substituted therefor $^{\rm subs.~2.}_{\rm re-enacted}$
 - (2) Where the applicant for registration is dissatisfied Review of with the maximum number of children referred to in of Registrar subsection 1 fixed by the Registrar, he may by written notice given to the Registrar and the Board require a hearing by the Board and the Board shall appoint a time for and hold a hearing.
 - (3) Pursuant to a hearing under subsection 1, the Board Decision of may affirm the maximum number of children determined by the Registrar or may determine such other number of children that may be lodged, boarded or cared for at any one time in the registered premises as it considers proper.
 - (4) Where a children's boarding home is used at any Offence time, except in the case of emergency, to lodge, board or care for a greater number of children than the maximum finally determined under this section, the occupier or, where the occupier is a corporation,

the corporation and every officer, director or servant thereof concerned in the management of the home are severally guilty of an offence and on summary conviction are liable to a fine of not more than \$25 for every day during which such use is continued.

R.S.O. 1960, c. 54, s. 8, re-enacted (4) Section 8 of *The Children's Boarding Homes Act* is repealed and the following substituted therefor:

Refusal to register

- 8. Subject to section 8b, the Registrar may refuse to register a children's boarding home if in his opinion,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to operate a children's boarding home in a responsible manner in accordance with this Act and the regulations;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the home will not be operated in accordance with this Act and the regulations; or
 - (c) the building or accommodation in which it is proposed to operate the home does not comply with the requirements of this Act and the regulations.

Revocation or refusal to review registration

- 8a. Subject to section 8b, the Registrar may refuse to renew or may revoke registration of a children's boarding home if in his opinion,
 - (a) the registrant or, where the registrant is a corporation, any officer, director or servant thereof, has contravened or has knowingly permitted any person under his control or direction or associated with him in the operation of the home to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the carrying on of the home and such contravention occurred through lack of competence or with intent to evade the requirements of such provision;
 - (b) the building or accommodation in which the children's boarding home is operated does not comply with the requirements of this Act or the regulations; or

- (c) the children's boarding home is operated in a manner that is prejudicial to the safety or welfare of the children boarded therein.
- 8b.—(1) Where the Registrar proposes to refuse to register Notice of or to renew or to revoke registration under this Act, to refuse the shall serve notice of his proposal teachter with to register, he shall serve notice of his proposal, together with etc. written reasons therefor, on the applicant or registrant.

(2) A notice under subsection 1 shall inform the applicant Notice requiring or registrant that he is entitled to a hearing by the hearing Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Board and he may so require such a hearing.

(3) Where an applicant or registrant does not require a Powers of hearing by the Board in accordance with subsection where no 2, the Registrar may carry out the proposal stated in his notice under subsection 1

(4) Where an applicant or registrant requires a hearing Powers of Board by the Board in accordance with subsection 2, where hearing the Board shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Registrar.

8c.—(1) Service of a notice under subsection 1 of section Service of 8b on an applicant or registrant may be made personally or by registered mail addressed to the applicant or registrant at his address last known to the Registrar and, where it is served by registered mail, it shall be deemed to have been served on the third day after the day of mailing unless the applicant or registrant establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive it until a later date.

(2) The Board may extend the time for requiring a hearing Extension of time for under section 8b, either before or after expiration of requiring hearing the time fixed therein, where it is satisfied that there are prima facie grounds for granting relief to the applicant or registrant pursuant to a hearing and

that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension.

Continuation of registration pending renewal

- (3) Subject to section 8e where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision.

Application of 1966, c. 37

8d. Sections 5g and 5h of The Day Nurseries Act, 1966 apply mutatis mutandis to proceedings by the Board under this Act and to appeals therefrom.

Provisional suspension, etc.

8e. Notwithstanding section 8b, the Registrar by notice to a registrant and without a hearing, may provisionally refuse renewal of or suspend registration of the registrant where the operation of the children's boarding home is, in the Registrar's opinion, an immediate threat to the safety or welfare of the children boarded therein and the Registrar so states in such notice giving his reasons therefor, and thereafter the provisions of section 8b apply as if the notice given under this section were a notice of a proposal to revoke the registration under subsection 1 of section 8b.

R.S.O. 1960, c. 54, s. 14, cl. *i*, repealed (5) Clause i of section 14 of The Children's Boarding Homes Act is repealed.

1962-63, c. 14, s. 2 (1968, c. 13, s. 2), re-enacted 19.—(1) Section 2 of *The Children's Institutions Act,* 1962-63, as re-enacted by section 2 of *The Children's Institutions Amendment Act, 1968*, is repealed and the following substituted therefor:

Approval of corporations

R.S.O. 1960, c. 71 2. Where the Lieutenant Governor in Council is satisfied that any corporation without share capital having objects of a charitable nature to which Part III of The Corporations Act applies or that is incorporated under a general or special Act of the Parliament of Canada is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a children's institution and that its affairs

Section 19. Principles are stated to govern the decision of the Lieutenant Governor in Council in giving approval of a corporation to operate a charitable institution and of buildings for the institution. Grounds for suspension or revocation of an approval are set out. A procedure requiring that an inquiry be held before suspension or revocation is proposed.



are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act.

- (2) Section 3 of The Children's Institutions Act, 1962-63, 1962-63, as amended by section 3 of The Children's Institutions Amend-re-enacted ment Act, 1968, is repealed and the following substituted therefor:
 - 3.—(1) Where the Lieutenant Governor in Council is Approval of satisfied that a building is suitable for providing accommodation as a children's institution in accordance with this Act and the regulations, he may approve such building as a children's institution for the maintenance and operation of which assistance may be given under this Act.
 - (2) An approval given under subsection 1 may take Effective effect on any date fixed by the Lieutenant Governor approval in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the children's institution.
- (3) Section 10 of *The Children's Institutions Act, 1962-63* is c. 14, s. 10, repealed and the following substituted therefor:
 - 10.—(1) Subject to this section, any approval given Suspension under this Act may be suspended by the Minister tion of or revoked by the Lieutenant Governor in Council approvals on the recommendation of the Minister if.
 - (a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or
 - (b) the approval would be refused if application were being made for it in the first instance.
 - (2) Subject to subsection 6 and except where an Hearing approval is suspended or revoked with the consent of the approved corporation, before suspending, or before recommending to the Lieutenant Governor

in Council revocation, of an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Department of Social and Family Services, appointed by the Minister.

Application of 1971, c. . . .

(3) Sections 4 to 16 and 21 to 24 of *The Statutory Powers Procedure Act*, 1971, apply with respect to a hearing under this section.

Report of Minister (4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected.

Decision of Minister (5) After considering a report made to him under this section, the Minister may thereupon suspend or may recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension of approval (6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

1962-63, c. 14, s. 11, cl. *q*, repealed (4) Clause q of section 11 of The Children's Institutions Act, 1962-63 is repealed.

1968-69, c. 10, ss. 5, 6, re-enacted 20.—(1) Sections 5 and 6 of *The Children's Mental Health Centres Act*, 1968-69 are repealed and the following substituted therefor:

Issue of licence

5.—(1) Subject to subsection 2, any person who applies in accordance with this Act and the regulations for a licence to operate a centre and pays the prescribed fee is entitled to be issued such licence on reasonable terms and conditions by the Director.

SECTION 20.

- 1. An applicant who applies for a licence to operate a centre is entitled to be issued a licence subject to certain specific enumerated exceptions.
- 2. The grounds upon which the Director may revoke a licence are specified.
- 3. Where a licensee is dissatisfied with the terms and conditions of his licence he may require that they be reviewed by the Board at a hearing.
- 4. The Director is required to give notice of a proposal to refuse to issue or renew or to revoke a licence and the applicant or licensee is entitled to a hearing by the Board if he requires one.
- 5. Procedural provisions supplementing *The Statutory Powers Procedure Act*, 1971 are proposed.
- 6. An appeal lies from a decision of the Board to the Divisional Court on all questions of law or fact or both.



- (2) Subject to section 9, the Director may refuse to issue Refusal a licence if in his opinion,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to operate a centre in a responsible manner in accordance with this Act and the regulations;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of any of its officers or directors, affords reasonable grounds for belief that the centre will not be operated in accordance with this Act and the regulations;
 - (c) the premises or facilities in which it is proposed to operate the centre do not comply with the requirements of this Act or the regulations;
 - (d) the applicant is not in a position to provide services in accordance with this Act and the regulations; or
 - (e) there is no public need for the centre in the area where the applicant proposes to establish, operate or maintain a centre.
- 6. Subject to section 9, the Director may revoke a Revocation licence under this Act if in his opinion,
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has knowingly permitted any person under his control or direction or associated with him in the operation of the centre to contravene.
 - (i) any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the carrying on of the centre, or
 - (ii) any term or condition of the licence,

and such contravention occurred through lack of competence or with intent to evade the requirements of such provision or such term or condition;

- (b) the premises or facilities in which the centre is operated do not comply with the requirements of this Act; or
- (c) the centre is operated in a manner that is prejudicial to the health, safety or welfare of the children cared for therein.

1968-69, c. 10, ss. 8-12, re-enacted; ss. 13, 14, repealed

(2) Sections 8, 9, 10, 11, 12, 13, and 14 of *The Children's Mental Health Centres Act, 1968-69* are repealed and the following substituted therefor:

Hearing re terms of licence 8.—(1) Where the Director issues a licence under this Act and the licensee is dissatisfied with the terms and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Board require a hearing by the Board, and the Board shall appoint a time for and hold a hearing.

Decision of Board (2) Pursuant to a hearing under subsection 1, the Board may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper and such terms and conditions shall be terms and conditions of the licence.

Proposal to refuse to issue or revoke 9.—(1) Where the Director proposes to refuse to issue or to revoke a licence under this Act, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Board and he may so require such a hearing.

Powers of Director where no hearing (3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of Board where hearing (4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director

to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

(5) The Board may extend the time for the giving of Extension of time for notice requiring a hearing by an applicant or licensee requiring hearing under this section either before or after expiration of such time where it is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and the Board may give such directions as it considers proper consequent upon the extension.

- (6) Where, within the time prescribed therefor or, if no continuation time is prescribed, before expiry of his licence, a pending renewal licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.
- 10.—(1) The Director, the applicant or licensee who has Parties required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this Act.
- (2) Notice of a hearing under section 9 shall afford Notice of hearing the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (3) An applicant or licensee who is a party to proceed-Examination of docuings under section 9 shall be afforded an opportunity mentary evidence to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc. (4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

1971, c. . . .

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence (8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to court

11.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Record to be filed in court (2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

- (3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under be heard this section.
- (4) An appeal under this section may be made on Powers of questions of law or fact or both and the court may appeal affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Director to take any action which the Board may direct him to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Director or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- 12. Notwithstanding section 9, the Director, by notice Provisional to a licensee and without a hearing, may provisionally suspend the licensee's licence where the operation of the centre under the licence is, in the Director's opinion, an immediate threat to the health, safety or welfare of the children cared for therein and the Director so states in such notice giving his reasons therefor, and thereafter the provisions of section 9 apply as if the notice given under this section were a notice of a proposal to revoke the licence under subsection 1 of section 9.
- (3) Section 15 of *The Children's Mental Health Centres Act*, 1968-69, 1968-69 is amended by striking out "14" in the second line amended and inserting in lieu thereof "12".
- (4) Subsection 3 of section 17 of *The Children's Mental Health* 1968-69, c. 10, s. 17. *Centres Act*, 1968-69 is amended by inserting after "time" subs. 3, amended where it appears the third time in the fifth line "upon the production of his appointment under this section".
- (5) Section 18 of *The Children's Mental Health Centres Act*, ¹⁹⁶⁸⁻⁶⁹, c. 10, s. 18, 1968-69 is repealed and the following substituted therefor: re-enacted
 - 18. Except where otherwise provided, any notice re-Service quired by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

1968-69, c. 10, s. 21, cl. *b*, re-enacted

- (6) Clause b of section 21 of The Children's Mental Health Centres Act, 1968-69 is repealed and the following substituted therefor:
 - (b) providing for the remuneration and expenses of members of the Licensing Board of Review;
 - (ba) providing for the issuing or renewal of licences or provisional licences for centres and prescribing the terms and conditions of licences.

1968-69, c. 11, s. 1, amended

- **21.**—(1) Section 1 of *The Collection Agencies Act*, 1968-69 is amended by relettering clause *a* as clause *aa* and by adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;

(da) "dwelling" means any premises or any part thereof occupied as living accommodation.

1968-69, c. 11, ss. 6-8, re-enacted, ss. 9-21, repealed (2) Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of *The Collection Agencies Act, 1968-69* are repealed and the following substituted therefor:

Registration

- 6.—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or

SECTION 21.

- 1. Under the present Act, a person is required to be registered to carry on the business of a collection agency. The amendments state grounds for refusing registration and for refusal to renew or suspension or revocation of registration more specifically than in the present Act.
- 2. Where the registrar proposes that registration or renewal of registration be refused or that registration be suspended or revoked he is required to give notice of his proposal to the applicant or registrant who may require a hearing before the proposed action is taken.
- 3. The hearing is held by the Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act, 1966*, and *The Statutory Powers Procedure Act, 1971* will apply to the proceedings. Provisions in this Act on matters now covered in *The Statutory Powers Procedure Act, 1971* are repealed.
- 4. Where application for renewal of registration is duly made before it expires, the registration continues until the application is disposed of.
- 5. The Minister is required to specify the scope of any general inquiry under the Act and Part II of *The Public Inquiries Act, 1971* applies to the inquiry.
- 6. Powers of investigation by the Director are clarified to restrict them to matters relevant to contraventions of the Act or commissions of offences and to the powers conferred under Part II of *The Public Inquiries Act, 1971*.
- 7. A search warrant may be obtained in defined circumstances on the order of a provincial judge.
- 8. Information obtained as the result of an inspection or investigation under the Act is to be kept confidential.
- 9. Principles upon which the Director may issue orders to refrain from dealing with assets are stated and an appeal is provided to the Tribunal.
- 10. Orders of the Director restricting the use of advertising are subject to an appeal to the Tribunal.
- 11. The presumption that notice by mail is served on the third day after mailing does not apply where the person to whom it was sent establishes that through causes beyond his control he did not receive it by that day.

This explanatory note should be read with the explanatory note to section 28 relating to amendments to *The Department of Financial and Commercial Affairs Act, 1966*, establishing the Commercial Registration Appeal Tribunal. That Act contains certain standard provisions that apply to all proceedings by the Tribunal.

This explanatory note applies to similar amendments to the following Acts administered in the Department of Financial and Commercial Affairs proposed in the following sections of this Bill:

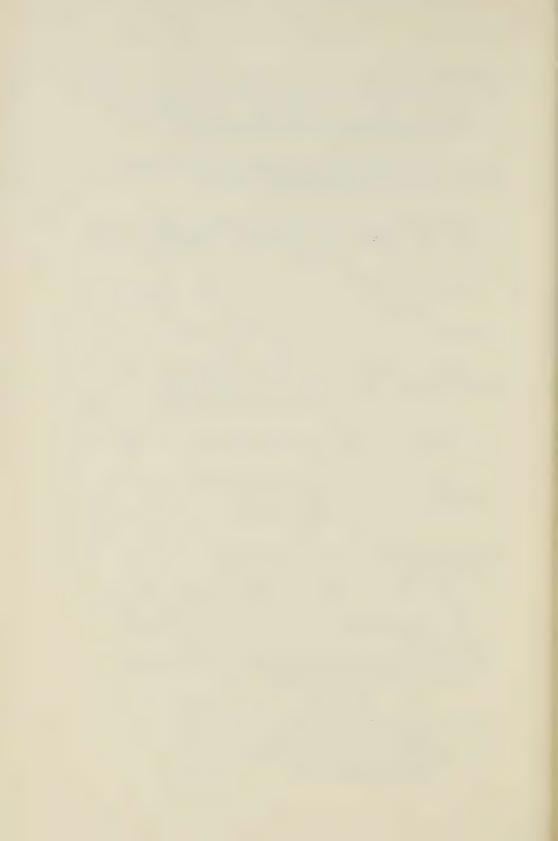
Consumer Protection Act, 1966 Section 23

Mortgage Brokers Act, 1968-69 Section 60

Real Estate and Business Brokers Act Section 77

Upholstered and Stuffed Articles Act, 1967-68 Section 85

Used Car Dealers Act, 1968-69 Section 86



- (d) the applicant is carrying on activities that are. or will be, if the applicant is registered, in contravention of this Act or the regulations.
- (2) A registration is subject to such terms and con-conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.
- 7.---(1) Subject to section 8, the Registrar may refuse Refusal to to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 6.
- (2) Subject to section 8, the Registrar may refuse to Refusal to renew or may suspend or revoke a registration for suspend any reason that would disentitle the registrant to or revoke registration under section 6 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.
- 8.--(1) Where the Registrar proposes to refuse to grant Notice of or renew a registration or proposes to suspend or to refuse revoke a registration, he shall serve notice of his or revoke proposal, together with written reasons therefor, on the applicant or registrant.
- (2) A notice under subsection 1 shall inform the applicant Notice or registrant that he is entitled to a hearing by hearing the Tribunal if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where an applicant or registrant does not require a Powers of Registran hearing by the Tribunal in accordance with sub-where no hearing section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where an applicant or registrant requires a hearing Powers of Tribunal by the Tribunal in accordance with subsection 2, where hearing the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or, to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation (7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation of registration pending renewal

- (8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order effective, stay 1966, c. 41 (9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.

1968-69, c. 11, s. 25, subs. 1, cl. *a*, re-enacted

- (3) Clause a of subsection 1 of section 25 of *The Collection Agencies Act*, 1968-69 is repealed and the following substituted therefor:
 - (a) is entitled to free access to all books of accounts, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

1968-69, c. 11, s. 26, re-enacted (4) Section 26 of *The Collection Agencies Act, 1968-69* is repealed and the following substituted therefor:

- 26. The Minister may by order appoint a person to Investigation make an investigation into any matter to which of Minister this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister, and for the purposes of the investigation the person making it has the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies 1971, c. ... to such investigation as if it were an inquiry under that Act.
- 26a.--(1) Where, upon a statement made under oath, the Investigation by Director Director believes on reasonable and probable grounds that any person has,
 - (a) contravened any of the provisions of this Act or the regulations; or
 - (b) committed an offence under the Criminal Code (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act.

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an Powers of investigation investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subjectmatter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

1971, c. . . .

and for the purposes of the inquiry, the person making the investigation has the powers conferred upon a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction of investigator

- (3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.
- (4) Where a provincial judge is satisfied, upon an ex parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Idem

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

- (7) The Minister or Director may appoint any expert to Appointment examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.
- 26b.—(1) Every person employed in the administration Matters of this Act, including any person making an inquiry, inspection or an investigation under section 23, 24, 25, 26 or 26a shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.
 - (2) No person to whom subsection 1 applies shall be Testimony required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.
- (5) Section 27 of *The Collection Agencies Act*, 1968-69 is 1968-69, amended by striking out "26" in the second line and in-amended serting in lieu thereof "26a".
- (6) Subsection 1 of section 28 of *The Collection Agencies* 1968-69, *Act, 1968-69* is repealed and the following substituted therefor: subs. 1, re-enacted
 - (1) Where,

Order to refrain from dealing

- (a) an investigation of any person has been ordered with assets under section 26a; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b, may in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the Bankruptcy Act (Canada), The Iudicature Act, The Corporations Act, The Business Corporations Act, 1970 or the Winding-up Act (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1960, cc. 197, 71, 1970, c. 25, R.S.C. 1952, cc. 14, 296

1968-69, c. 11, s. 28, amended

(7) The said section 28 is amended by adding thereto the following subsection:

Cancellation of direction or registration

(5) Any person referred to in clause a or b of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4, may, at any time apply to the Tribunal for cancellation in whole or in part of the direction or registration, and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

1968-69, c. 11, s. 30, subs. 1, amended (8) Subsection 1 of section 30 of *The Collection Agencies Act*, 1968-69 is amended by inserting after "other" in the fourth line "similar".

1968-69, c. 11, s. 30, subs. 2, re-enacted

(9) Subsection 2 of section 30 of *The Collection Agencies Act*, 1968-69 is repealed and the following substituted therefor:



Section 22. There are no appeals from orders of an inspector under the present Act. The amendments make provision for appeals to the chief officer from stop-work orders of an inspector in detail and generally to the chief officer from other orders of an inspector under the Act.

- (2) Where the Registrar believes on reasonable and prob-False able grounds that any of the material referred to in subsection 1 is harsh, false, misleading or deceptive, the Registrar may alter, amend, restrict or prohibit the use of such material, and section 8 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.
- (10) Section 34 of *The Collection Agencies Act*, 1968-69 is 1968-69, repealed and the following substituted therefor:
 - 34. Where the Registrar believes on reasonable and probable grounds that a collection agency is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material, and section 8 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.
- (11) Subsection 2 of section 35 of *The Collection Agencies* $_{c.\ 11,\ s.\ 35,\ Act,\ 1968-69}^{1968-69}$ is repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the deemed day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
- (12) Clause d of section 38 of *The Collection Agencies Act*, 1968-69, 1968-69 is amended by striking out "or to any such person, cl. d, amended document or material" in the second and third lines.
- **22.**—(1) Section 17 of *The Construction Safety Act*, 1961-62, 1961-62, as amended by section 8 of *The Construction Safety Amendment* re-enacted *Act*, 1965, is repealed and the following substituted therefor:
 - 17.—(1) Where an inspector is of opinion that any provision of this Act or the regulations is being contravened, he may give such order in writing to such
 person or persons as is necessary to ensure compliance
 with such provision and such order shall specify that

it shall be carried out forthwith or before the expiry of such period as is specified therein and,

- (a) where the order specifies that it be carried out forthwith, all work on the project or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with; or
- (b) where the order specifies the period within which it is to be carried out and it is not carried out within that period, all work on the project or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with.

Appeal

(2) Any person who considers himself aggrieved by an order of an inspector made under subsection 1 may appeal to the chief officer who shall hear and dispose of the appeal as promptly as is practicable but the bringing of such appeal does not affect the operation of the order appealed from pending disposition of the appeal.

Powers of chief officer

- (3) After hearing an appeal under this section, the chief officer may substitute his opinion for that of the inspector and,
 - (a) if he is of opinion that no provision of this Act or the regulations is being contravened, may rescind the order of the inspector; or
 - (b) if he is of opinion that any provision of this Act or the regulations is being contravened,
 - (i) may affirm the order of the inspector, or
 - (ii) may give a new order to the appellant in substitution therefor and for such purpose the chief officer has the powers of an inspector under subsection 1 and clauses a and b of subsection 1 apply to the order of the chief officer as if it were an order of an inspector under subsection 1.

- (4) Where an order is given by an inspector or the chief Affixing a copy of order officer under subsection 1 or 3, a copy thereof may be to project affixed to the project or any part thereof, and no person, except the inspector or the chief officer, shall remove such copy unless authorized by the inspector or chief officer.
- (5) Every person to whom an order is given under this Compliance Act shall comply with it in accordance with its terms.
- (2) The Construction Safety Act, 1961-62 is amended by $^{1961-62}_{c.\ 18}$, renumbering section 17a, as enacted by section 9 of The amended Construction Safety Amendment Act, 1965, as section 17c and by adding thereto the following sections:
 - 17a.—(1) Any person who considers himself aggrieved Appeals from by a decision of an inspector under this Act or the inspector regulations, other than an order under section 17, may appeal to the chief officer who shall hear and dispose of the appeal.
 - (2) On an appeal under this section, the chief officer may Powers of substitute his findings or opinions for those of the inspector who made the decision appealed from and may affirm or reverse such decision or make a new decision in substitution therefor and for such purpose has all the powers of the inspector and the decision of the chief officer shall stand in the place of and have like effect under this Act and the regulations as the decision of the inspector.
 - 17b.—(1) An appeal under section 17 or 17a may be made How appeal in writing or orally or by telephone, but the chief officer may require the grounds for appeal to be specified in writing before the hearing.
 - (2) The appellant, the inspector from whom the appeal Parties is taken and such other persons as the chief officer may specify are parties to an appeal under section 17 or 17a.
- (3) Subsection 2 of section 22 of *The Construction Safety Act*, 1961-62, 1961-62, as enacted by section 15 of *The Construction Safety* subs. 2

 Amendment Act, 1965, is repealed and the following substituted (1965, c. 19, therefor:
 - (2) Every person to whom an order of an inspector or of Penalty the chief officer is given under section 17,
 - (a) who contravenes or who knowingly permits any person under his direction and control to contravene such order; or

(b) who carries on work or knowingly permits any person under his direction or control to carry on work in contravention of subsection 1 or 3 of section 17,

is guilty of an offence and on summary conviction, in addition to the penalties mentioned in subsection 1, is liable to a fine of not more than \$100 a day for every day upon which the offence continued.

1966, c. 23, s. 1, amended

- 23.—(1) Section 1 of The Consumer Protection Act, 1966, as amended by section 1 of The Consumer Protection Amendment Act, 1967, section 1 of The Consumer Protection Amendment Act, 1968 and section 1 of The Consumer Protection Amendment Act, 1968-69, is further amended by adding thereto the following clauses:
 - (ab) "business premises" does not include a dwelling;

.

(ea) "dwelling" means any premises or any part thereof occupied as living accommodation.

1966, c. 23, ss. 5-7 (1968-69, c. 14, s. 2), re-enacted; ss. 8-14 (1968-69, c. 14, s. 2), repealed

(2) Sections 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of *The Consumer Protection Act*, 1966, as re-enacted by section 2 of *The Consumer Protection Amendment Act*, 1968-69, are repealed and the following substituted therefor:

Registration

- 5.—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or

Section 23. See explanatory note to similar amendments amending The Collection Agencies Act, 1968-69 in section 21 of this Bill and also the explanatory note to the amendments to The Department of Financial and Commercial Affairs Act, 1966 in section 28 of this Bill.



- (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.
- (2) A registration is subject to such terms and con-Conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.
- 6.—(1) Subject to section 7, the Registrar may refuse to Refusal to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5.
- (2) Subject to section 7, the Registrar may refuse to Refusal to renew or may suspend or revoke a registration for suspend or any reason that would disentitle the registrant to revoke registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.
- 7.—(1) Where the Registrar proposes to refuse to grant Notice of or renew a registration or proposes to suspend or to refuse revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.
- (2) A notice under subsection 1 shall inform the applicant Notice or registrant that he is entitled to a hearing by the hearing Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where an applicant or registrant does not require Powers of a hearing by the Tribunal in accordance with sub-where no section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where an applicant or registrant requires a hearing Powers of By the Tribunal in accordance with subsection 2, where the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar

to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order (5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation (7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation of registration pending renewal

- (8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order effective, stay

1966, c. 41

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.

1966, c. 23, ss. 14*a*-14 f (1968-69, c. 14, s. 2), repealed (3) Sections 14a, 14b, 14c, 14d, 14e and 14f of The Consumer Protection Act, 1966, as enacted by section 2 of The Consumer Protection Amendment Act, 1968-69, are repealed.

1966, c. 23, s. 14*j* (1968-69, c. 14, s. 2), subs. 1, cl. *a*, re-enacted (4) Clause a of subsection 1 of section 14j of The Consumer Protection Act, 1966, as enacted by section 2 of The Consumer Protection Amendment Act, 1968-69, is repealed and the following substituted therefor:

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(5) Subsection 2 of section 14m of The Consumer Protection 1966, c. 23, s. 14m (1968-64, 1966, as enacted by section 2 of The Consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 is proved by the consumer Pro-69, c. 14, s. 2), subsection 4 manufactures 4 to 1968, 60 i tection Amendment Act, 1968-69, is repealed and the following re-enacted substituted therefor:

- (2) Where service is made by registered mail, the service When shall be deemed to be made on the third day after deemed the day of mailing unless the person on whom service made is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
- (6) Clause d of subsection 2 of section 140 of The Consumer 1966, c. 23, s. 140 (1968-69, Protection Act, 1966, as enacted by section 2 of The Consumer c. 14, s. 2). Protection Amendment Act, 1968-69, is amended by striking out cl. d, "or to any such person, document or material" in the second amended and third lines.
- (7) Part I of The Consumer Protection Act, 1966, as re-1966, c. 23, enacted by section 2 of The Consumer Protection Amendment (1968-69, c. 14, Act, 1968-69, is amended by adding thereto the following amended section:
 - 14p.—(1) Each person employed in the administration of Matters confidential this Act, including any person making an inspection under section 14h, 14i or 14j shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment or inspection and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

1966. c. 23, s. 31 (1968-69, c. 14, s. 3), re-enacted

(8) Section 31 of *The Consumer Protection Act*, 1966, as re-enacted by section 3 of *The Consumer Protection Amendment Act*, 1968-69, is repealed and the following substituted therefor:

False advertising 31. Where the Registrar believes on reasonable and probable grounds that a seller or lender is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies *mutatis mutandis* to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

1966, c. 23, s. 33, cl. *l*, repealed (9) Clause l of section 33 of The Consumer Protection Act, 1966, as relettered by section 6 of The Consumer Protection Amendment Act, 1967, is repealed.

R.S.O. 1960, c. 67, s. 10, subs. 1, re-enacted **24.** Subsection 1 of section 10 of *The Co-Operative Loans Act* is repealed and the following substituted therefor:

Inspection of books, etc.

(1) The Treasurer may appoint a person to inspect the books, accounts and property and to inquire into the affairs of any co-operative association that has a loan under this Act and a person so appointed has for the purpose of the inspection and inquiry the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inspection or inquiry as if it were an inquiry under that Act.

1971, c. . . .

1966, c. 37, s. 1, cl. aa (1968-69 c. 23, 25.—(1) Clause aa of section 1 of The Day Nurseries Act, 1966, as enacted by subsection 1 of section 1 of The Day Nurseries Amendment Act, 1968-69, is repealed and the following substituted therefor:

s. 1, subs. 1)
re-enacted

Nurseries Ame
ing substituted

(aa) "Board" means the Day Nursery Review Board established under section 5.

1966, c. 37, s. 5, ss. 5a-5i (1968-69 c. 23, s. 5), re-enacted (2) Section 5, as amended by section 4 of *The Day Nurseries Amendment Act*, 1968-69, and sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h and 5i, as enacted by section 5 of *The Day Nurseries Amendment Act*, 1968-69, of *The Day Nurseries Act*, 1966, are repealed and the following substituted therefor:

Section 24. Present powers to summon witnesses and enforce production of documents are amended to confer these powers by reference to Part II of *The Public Inquiries Act*, 1971.

SECTION 25.

- 1. A Day Nursery Review Board is established.
- 2. Subject to certain specific grounds for refusal, an applicant is entitled to a licence to operate a day nursery and to renewal thereof.
- The grounds for refusal to issue or renew or for revocation of a licence are specified.
- 4. The Director may prescribe terms and conditions in a licence. An appeal is provided to the Board.
- 5. The Director is required to give notice of a proposal to refuse to issue or renew or to revoke a licence and the applicant or licensee is entitled to a hearing by the Board if he requires one.
- 6. Procedural provisions supplementing The Statutory Powers Procedure Act, 1971 are proposed.
 - 7. An appeal lies from a decision of the Board to the Divisional Court.



- 5.—(1) The Lieutenant Governor in Council may Day Nursery appoint a board, consisting of not more than five Board, members to be known as the Day Nursery Review Board and may designate one member of the Board as chairman
- (2) Three members of the Board constitute a quorum. Quorum
- (3) The members of the Board shall be paid such re-Remuneration muneration and expenses as the Lieutenant Governor in Council may from time to time determine.
- 5a.—(1) No person shall operate a day nursery without Licence a licence therefor issued by the Director and the Director may prescribe in the licence reasonable terms and conditions to the operation of the day nursery.
- (2) Subject to section 5b, any person who applies in Issue accordance with this Act and the regulations for a licence to operate a day nursery and pays the prescribed fee is entitled to be issued a licence by the Director subject to reasonable terms and conditions.
- (3) Subject to section 5c, a licensee who makes application Renewal in accordance with this Act and the regulations for renewal of his licence and pays the prescribed fee is entitled to a renewal of his licence by the Director.
- 5b. Subject to section 5e, the Director may refuse to issue Refusal to issue a licence if in his opinion,
 - (a) the applicant, or where the applicant is a corporation, its officers or directors, is or are not competent to operate a day nursery in a responsible manner in accordance with this Act and the regulations;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the day nursery will not be operated in accordance with this Act and the regulations; or
 - (c) the building or accommodation in which it is proposed to operate the day nursery does not comply with the requirements of this Act and the regulations.

Refusal to renew or revocation

- 5c. Subject to section 5e, the Director may refuse to renew or may revoke a licence if in his opinion,
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has knowingly permitted any person under his control or direction or associated with him in the operation of the day nursery to contravene,
 - (i) any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the carrying on of the day nursery; or
 - (ii) any term or condition of the licence,

and such contravention occurred through lack of competence or with intent to evade the requirements of such provision or term or condition;

- (b) the building or accommodation in which the day nursery is operated does not comply with the requirements of this Act and the regulations; or
- (c) the day nursery is operated in a manner that is prejudicial to the safety or welfare of the children cared for therein.

Review of terms of licence by Board

5d.—(1) Where the Director issues a licence and the licensee is dissatisfied with the terms and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Board require a hearing by the Board and the Board shall appoint a time for and hold a hearing.

Decision of Board

(2) Pursuant to a hearing under subsection 1, the Board may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper, and terms and conditions so prescribed shall be terms and conditions of the licence.

Notice of proposal to refuse to issue or to revoke 5e.—(1) Where the Director proposes to refuse to issue or renew or to revoke a licence under this Act, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

(2) A notice under subsection 1 shall inform the requiring applicant or licensee that he is entitled to a hearing hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him. notice in writing requiring a hearing to the Director and the Board and he may so require such a hearing.

(3) Where an applicant or licensee does not require a Powers of Director hearing by the Board in accordance with subsection 2, where no hearing the Director may carry out the proposal stated in his notice under subsection 1.

(4) Where an applicant or licensee requires a hearing by Powers of the Board in accordance with subsection 2, the where Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

5f.—(1) Service of a notice under section 5e may be made Service of notice personally or by registered mail addressed to the applicant or licensee at his address last known to the Director and, where the notice is served by registered mail, it shall be deemed that the notice was served on the third day after the day of mailing unless the applicant or licensee establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive it until a later date.

(2) The Board may extend the time for requiring Extension of time for a hearing under section 5e, either before or after requiring hearing expiration of the time fixed therein, where it is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension.

(3) Subject to section 5i, where, within the time Continuation of licence prescribed therefor or, if no time is prescribed, pending before expiry of his license, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision.

Parties

5g.—(1) The Director, the applicant or licensee who has applied for the hearing and such other persons as are specified by the Board are parties to proceedings before a Board under this Act.

Members at hearing not to have taken part in investigation, etc. (2) A member of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Notice of hearing (3) Notice of a hearing under section 5e shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the renewal or retention of the licence.

Examination of documentary evidence

(4) An applicant or licensee who is a party to proceedings under section 5d or 5e shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Pro*cedure Act. 1971.

1971, c. . . .



Section 26. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63*, and are explained in the explanatory note to section 9 of this Bill.

- (7) No member of the Board shall participate in a Only members at hearing to decision of the Board pursuant to a hearing unless participate in he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 5h.—(1) Any party to the proceedings before the Board Appeal may appeal from its decision or order to the Supreme Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be section, the Board shall forthwith file with the Registrar of the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made, which, together with the transcript of evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.
- (3) The Minister is entitled to be heard, by counsel Minister or otherwise, on the argument of an appeal under to be heard this section.
- (4) The Supreme Court may affirm the decision of Powers of the Board appealed from or may rescind it and make such new decision as the court considers proper and, for such purpose, the court may exercise all the powers of the Board after a hearing before it and may substitute its opinion for that of the Board.
- 5i. Notwithstanding section 5e, the Director, by notice Provisional to a licensee and without a hearing, may provisionally refuse renewal of or suspend the licensee's licence where the operation of the day nursery under the licence is, in the Director's opinion, an immediate threat to the safety or welfare of the children cared for therein and the Director so states in such notice giving his reasons therefor, and thereafter the provisions of section 5e apply as if the notice given under this section were a notice of a proposal to revoke the licence under subsection 1 of section 5e.
- (3) Clause h of section 7 of The Day Nurseries Act, 1966 1966, c. 37, s. 7, cl.h, repealed.
- **26.**—(1) Section 1 of *The Dead Animal Disposal Act*, R.S.O. 1960, as amended by section 1 of *The Dead Animal Disposal Amend-amended*

ment Act, 1965, is further amended by relettering clause a as clause b and by adding thereto the following clauses:

- (a) "Board" means the Dead Animal Disposal Licence Review Board established by this Act;
- (ea) "licence" means a licence under this Act.

R.S.O. 1960, c. 88, s. 5, subss. 2, 3 (1961-62, c. 28, s. 3), repealed (2) Subsections 2 and 3 of section 5 of *The Dead Animal Disposal Act*, as enacted by section 3 of *The Dead Animal Disposal Amendment Act*, 1961-62 and amended by subsections 2 and 3 of section 2 of *The Dead Animal Disposal Amendment Act*, 1965, are repealed.

R.S.O. 1960, c. 88, amended (3) The Dead Animal Disposal Act is amended by adding thereto the following sections:

Licence,

- 5a.—(1) The Director shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business that would be authorized by the licence;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law:
 - (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business authorized by the licence in accordance with this Act and the regulations; or
 - (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

Renewal

(2) Subject to section 5b, the Director shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

- 5b.—(1) The Director may refuse to renew or may sus-Refusal to renew, pend or revoke a licence if, after a hearing, he is of suspension opinion that,
 - (a) the premises, facilities and equipment used in the business carried on pursuant to the licence do not comply with this Act and the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection
 with the business carried on pursuant to the
 licence to contravene any provision of this
 Act or the regulations or of any other Act
 or the regulations thereunder or of any law
 applying to the carrying on of such business
 or the conditions for licencing and such contravention warrants such refusal to renew,
 suspension or revocation of the licence; or
 - (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.
- (2) Notwithstanding subsection 1, the Director, by notice Provisional to a licensee and without a hearing, may provisionally etc. refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or of the public and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.
- (3) Subject to subsection 2, where, within the time Continuation prescribed therefor or, if no time is prescribed, before pending expiry of his licence, a licensee has applied for renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.
- 5c.—(1) The notice of a hearing by the Director under Notice of section 5a or section 5b shall afford to the applicant or licensee a reasonable opportunity to show or to

achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence (2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by Director 5d. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Review Board established 5e.—(1) A board to be known as the "Dead Animal Disposal Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

Term of office (2) A member of the Board shall hold office for not more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Remunera-

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to Board 5f.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.

- (2) The Board may extend the time for the giving of Extension notice by an applicant or licensee under subsection 1, for appeal either before or after expiration of such time, where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.
- (3) Where an applicant or licensee appeals to the Board Disposal of appeal under this section, the Board shall hear the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.
- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending disposal Director, unless the Director otherwise directs, the of appeal decision of the Director is effective until the appeal is disposed of.
- 5g.—(1) The Director, the appellant and such other per-Parties sons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members making after a hearing shall not have taken part prior to the decision hearing in any investigation or consideration of the have taken subject-matter of the hearing and shall not com-investigation, municate directly or indirectly in relation to the etc. subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Board at a Recording of evidence hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings of fact hearing shall be based exclusively on evidence ad-

1971, c. . . .

missible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision (5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all persons so present participate in the decision.

Appeal to court

5h.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of Court.

Minister entitled to be heard (2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to be filed in (3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 88, s. 8, subs. 3, amended (4) Subsection 3 of section 8 of *The Dead Animal Disposal Act*, as amended by section 3 of *The Dead Animal Disposal Amendment Act*, 1965, is further amended by adding at the commencement thereof "Subject to subsection 4".

R.S.O. 1960, c. 88, s. 8, amended (5) The said section 8 is amended by adding thereto the following subsection:



Section 27. To remove all doubts as to whether the procedures under *The Statutory Powers Procedure Act, 1971* might apply to the matters specified in the amendment.

Section 28. The Commercial Registration Appeal Tribunal in the Department of Financial and Commercial Affairs was established by *The Department of Financial and Commercial Affairs Amendment Act*, 1968-69. The amendments add the following provisions to the Act:

- 1. The Tribunal is required to be impartial.
- 2. A notice of a hearing by the Tribunal (which will relate to a refusal to register or to renew registration or to suspend or revoke registration) is required to afford the registrant an opportunity before the hearing to comply with the Act and to examine documents that will be produced in evidence at the hearing.
- 3. Oral evidence is required to be recorded.
- 4. Findings of fact are required to be based on evidence.
- Members of the Tribunal making a decision are required to have heard the evidence and argument of the parties.
- 6. Limited power is conferred on the Tribunal to extend time for requiring a hearing by it.
- 7. Appeals on questions of law or fact may be taken from decisions of the Tribunal to the Divisional Court.

- (4) Except under the authority of a warrant under sec-Power tion 14 of *The Summary Convictions Act*, the Direc-dwelling tor or an inspector shall not enter any part of a R.S.O. 1960, dwelling without the consent of the occupant.
- 27. The Department of Correctional Services Act, 1968 is 1968, c. 27, amended by adding thereto the following section:
 - 34a. The Statutory Powers Procedure Act, 1971 does not Application apply to proceedings for the discipline of inmates in correctional institutions or to their transfer under section 11 or for the authorization under section 19 or 20 of temporary absences of inmates or to proceedings of the Board notwithstanding anything in that Act.
- 28. The Department of Financial and Commercial Affairs 1966, c. 41, Act, 1966 is amended by adding thereto the following sections:
 - 8d. —(1) This section applies to proceedings before the $_{\rm of\ section}^{\rm Application}$ Tribunal.
 - (2) Members of the Tribunal holding a hearing shall not Members have taken part in any investigation or considera-hearing not tion of the subject-matter of the hearing beforetaken part in the hearing and shall not communicate directly or etc. indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.
 - (3) Where a hearing by the Tribunal is required,

Notice of hearing

- (a) notice of the hearing shall afford to the person requiring the hearing a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements concerning the subject-matter of the hearing; and
- (b) the person requiring the hearing shall be afforded an opportunity to examine before the

hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording of evidence

(4) The oral evidence taken before the Tribunal at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the payment of such fees therefor as the Lieutenant Governor in Council may prescribe by regulation.

Findings of fact

1971, c. . . .

(5) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision (6) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and except with the consent of the parties no decision of the Tribunal shall be given unless all members so present participate in the decision.

Extension of time for giving notice (7) Notwithstanding any limitation of time for the giving of any notice requiring a hearing by the Tribunal fixed by or under any Act, and where it is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for applying for the extension, the Tribunal may extend the time for giving the notice either before or after expiration of the time so limited, and may give such directions as it considers proper consequent upon such extension.

Appeal from decision of Tribunal 8e.—(1) Any party to proceedings before the Tribunal may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Record to be filed in court

(2) Where any party appeals from a decision of the Tribunal, the Tribunal shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Tribunal's record, shall constitute the record in the appeal.



SECTION 29.

- 1. The reference in the provision conferring powers on the Industry and Labour Board to *The Public Inquiries Act* is changed to a reference to Part II of *The Public Inquiries Act*, 1971.
- 2. An inspector is now authorized to issue stop-work orders where he is of opinion that work is being carried on in such manner as to be dangerous to life or property. Provision is made for an appeal from an inspector to his immediate superior.

- (3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under to be this section.
- (4) An appeal under this section may be made on Powers of questions of law or fact or both and the court may appeal exercise all the powers of the Tribunal, and for such purpose the court may substitute its opinion for that of the Registrar or of the Tribunal, or the court may refer the matter back to the Tribunal for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- **29.**—(1) Subsection 2 of section 9 of *The Department of* R.S.O. 1960, *Labour Act* is repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) For the purpose of procuring such information or Public for the purpose of assisting the Department in carry-by Board ing out any of the provisions of section 6, the Minister may authorize the Board or any members of the Board to conduct a public inquiry and the Board and the member or members thereof acting under such authority have, for the purpose of conducting such public inquiry, the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to such public inquiry as if 1971, c. ... it were an inquiry under that Act.
- (2) Section 11 of *The Department of Labour Act*, as re-R.S.O. 1960, enacted by section 2 of *The Department of Labour Amend*-(1962-63, c. 33, ment Act, 1962-63, is amended by adding thereto the following amended subsections:
 - (3) Any person who considers himself aggrieved by an Appeal order made by an inspector under this section may appeal to the chief inspector or chief officer having supervision over the inspector or if there is no such chief inspector or chief officer, to the Deputy Minister who shall designate a person to hear and determine the appeal.
 - (4) A chief inspector or chief officer to whom an appeal Hearing is made under this section or the person designated under subsection 3 to hear an appeal shall hear and dispose of the appeal as promptly as is practicable, but the bringing of such appeal does not affect the operation of the order appealed from pending disposition of the appeal.

How appeal made

(5) An appeal under this section may be made in writing or orally or by telephone, but the person to whom the appeal is made may require the grounds for appeal to be specified in writing before the hearing.

Parties

(6) The appellant, the inspector from whom the appeal is taken and such other persons as the person to whom the appeal is made may specify are parties to an appeal under this section.

Powers of person hearing appeal (7) The person hearing an appeal under this section may substitute his findings or opinions for those of the inspector who made the order appealed from and may affirm or rescind the order or make a new order in substitution therefor and has all the powers of the inspector for such purpose and the decision or order on the appeal shall stand in the place of and have a like effect under this Act and the regulations as the decision or order of the inspector.

1967, c. 23, s. 7, re-enacted **30.**—(1) Section 7 of *The Department of Social and Family Services Act, 1967* is repealed and the following substituted therefor:

Regulations governing occupation and operation of institutions

- 7.—(1) Where any institution or organization is operated or managed for charitable objects or purposes and where,
 - (a) the persons operating and managing the institution so request; or
 - (b) the institution or organization procures funds for its operation from the public and the Lieutenant Governor in Council considers it necessary to ensure proper application of such funds; or
 - (c) any approval, licence or registration for the operation of the institution or organization required by any Act administered by the Minister, has been refused or revoked; or
 - (d) the Lieutenant Governor in Council considers it necessary in the best interests of those residing in or relying on the services of such institution or organization and for their immediate protection,

the Lieutenant Governor in Council may make regulations,

SECTION 30.

- 1. The powers of the Minister to assume control of institutions or organizations are stated more specifically.
- 2. Provision is made for the Minister to obtain a warrant for possession where necessary.
- 3. Except with the consent of the operators of an institution, the Minister's control is limited to a period of one year but may be extended by the Lieutenant Governor in Council.

SECTION 31.

- 1. The powers of persons appointed by the Minister to make investigation are defined by reference to Part II of *The Public Inquiries Act, 1971*.
- 2. The Act presently requires permits for the construction or alteration of tourist establishments, and licences for their operation, but the grounds for refusing to issue or renew, for approval of transfers and for suspension or cancellation of licences are contained in the regulations. The amendments propose that the main provisions governing these matters, and specifically the grounds upon which permits or licences or their renewal or transfer may be refused or may be suspended or cancelled, be transferred to the Act.
- 3. An applicant for a permit to construct or to alter a tourist establishment is given a right to a permit if his establishment will comply with requirements of the Act and regulations. His right may be enforced by an application for judicial review under *The Judicial Review Procedure Act*, 1971.
- 4. Where a licence issuer refuses to issue, renew or transfer, or suspends or cancels, a licence an appeal is provided to a judge of the county or district court by way of a hearing *de novo*.
 - 5. An appeal lies from the decision of a judge to the Divisional Court.
- 6. Entry by an inspector into a dwelling unit that is actually occupied is prohibited except under a search warrant.
- 7. An inspector is authorized provisionally to suspend a licence where there is danger to safety or health and thereafter the provisions relating to hearings and appeals apply.

- (e) designating such institution or organization to be subject to the control of the Minister;
- (f) governing the operation and activities of any institution or organization designated under clause e and the procuring of funds from the public and the application thereof by such institution or organization;
- (g) authorizing the Minister to operate and manage any such institution or organization designated under clause e and for that purpose, notwithstanding sections 25 and 40 of The Expropriations Act, 1968-69, authorizing 1968-69, c. 36 the Minister to immediately occupy and operate, or arrange for the occupation and operation by a person or organization designated by him, any premises occupied or used by such institution or organization, but the rights of the owner under that Act, except the right to possession, shall not be affected thereby.
- (2) Where the Minister has been authorized under this Warrant for section to occupy any premises, if the persons in occupation occupation refuse to permit the Minister or persons authorized by him for that purpose to enter upon and occupy the premises or resist such entry, the Minister may apply ex parte to a judge of the county or district court of the county or district in which the premises are situate for a warrant directing the sheriff to put the Minister or persons authorized by him in occupation of the premises and the judge, upon being satisfied that the Minister is so authorized to occupy the premises and of such refusal or resistance, may issue such warrant and the sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof.
- (3) Except with the consent of the person operating Period of and managing an institution, the Minister shall not occupy and operate or arrange for the occupation and operation of the premises of an institution under subsection 1 for a period longer than a year, but the Lieutenant Governor in Council may from time to time extend such period.
- **31.**—(1) Section 1 of *The Department of Tourism and* ^{1966, c. 44, Information Act, 1966 is amended by adding thereto the ^{amended} following clauses:}

(ba) "licence issuer" means the tourist industry officer of the Department of Tourism and Information or other official of the Department designated as such by the Minister;

.

- (da) "operator" means the resident manager or other person in charge of a tourist establishment.
- 1966, c. 44, s. 5, re-enacted (2) Section 5 of The Department of Tourism and Information Act, 1966 is repealed and the following substituted therefor:

Investigations 5. The Minister may by order appoint one or more persons to investigate, inquire into and report to him upon any matter connected with or affecting the tourist industry, including accommodation, facilities, or services offered to tourists or the advertising or publicizing thereof, or of the resources, attractions or advantages of Ontario, and, for the purposes of the investigation and inquiry, any person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the investigation as if it were an inquiry under that Act.

1971, c. . . .

1966, c. 44,

s. 6, re-enacted (3) Section 6 of *The Department of Tourism and Information* Act, 1966 is repealed and the following substituted therefor:

Construction permit required

6.—(1) No person shall construct a tourist establishment or make an addition to or a structural alteration in a tourist establishment except in accordance with a permit therefor in the prescribed form issued under this Act.

Issue of permit

- (2) Subject to subsection 3, a person is entitled to be issued a permit for the construction of, or the making of additions to or structural alterations in, a tourist establishment upon filing with the proper licence issuer,
 - (a) an application therefor in the prescribed form;
 - (b) plans and specifications of the proposed tourist establishment showing that the establishment as constructed, added to or altered will comply with the requirements of this Act and the regulations and of any other law, regulation or by-law applicable to the establishment.

- (3) A licence issuer may, after hearing the applicant, Refusal refuse to issue a permit under this section if the plans and specifications for the tourist establishment or for additions to or alterations in a tourist establishment do not comply with clause b of subsection 2.
- (4) A permit under this section expires one year after Expiry of the date it was issued.
- (5) No holder of a permit shall construct a tourist Plans and establishment or make an addition to or structural alteration in a tourist establishment except in accordance with the plans and specifications in relation to which the permit was granted.
- 6a.—(1) No person shall operate a tourist establish-Operator's ment except in accordance with a licence in the required prescribed form issued therefor under this Act.
- (2) Subject to section 6b, a person is entitled to be Issue of issued a licence to operate a tourist establishment upon application therefor in the prescribed form to the proper licence issuer, accompanied by such information as may be prescribed by the regulations, and payment of the prescribed fee.
- (3) A licence issued under this section,

Term of licence

- (a) becomes effective on the first day of April of the year in which it is issued or the date on which it is issued, whichever is the later; and
- (b) expires on the 31st day of March next following unless sooner suspended or cancelled.
- 6b.—(1) A licence issuer may, after a hearing, refuse Refusal to issue a licence to operate a tourist establishment if,
 - (a) the tourist establishment does not comply with the requirements of this Act or the regulations or any other law, regulation or by-law applicable to the establishment:
 - (b) a licence to operate a tourist establishment was previously issued to the applicant and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or

(c) the owner, lessee or operator of the establishment has been convicted of any offence for conduct that affords reasonable grounds for believing that the tourist establishment will not be operated in accordance with law and with honesty and integrity.

Transmission of report, etc., to Minister and applicant

- (2) Within forty-eight hours after a refusal to issue a licence, the licence issuer shall transmit,
 - (a) to the Minister the application and a report setting forth the reasons for the refusal; and
 - (b) to the applicant by registered mail, a copy of the report and a notification that a refund has been authorized and will be issued from the office of the Provincial Treasurer in due course.

Renewal of licence

6c.—(1) Subject to section 6d, the holder of a licence to operate a tourist establishment is entitled to a renewal thereof upon application therefor in the prescribed form to the proper licence issuer and payment of the prescribed fee.

Application

- (2) Application for renewal of a licence to operate a tourist establishment shall be made,
 - (a) where the establishment is operated throughout the year, before expiry of the current licence; or
 - (b) where the establishment is operated for only part of the year, before the 15th day of May in each year.

Continuation of registration pending renewal

- (3) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice of a hearing by the licence issuer, until the decision of the licence issuer has become final.

Suspension, etc., of licence 6d.—(1) A licence issuer may, after a hearing, refuse to renew or suspend or cancel a licence to operate a tourist establishment if,

- (a) the tourist establishment does not comply with the requirements of this Act or the regulations or of any other law, regulation or by-law applicable to the establishment;
- (b) the owner, lessee or operator of the establishment,
 - (i) has contravened any provision of this Act or the regulations, or
 - (ii) has been convicted of any offence for conduct that affords reasonable grounds for believing that the tourist establishment will not be operated in accordance with law or with honesty and integrity; or
- (c) the establishment, or any part thereof, is declared a public place under subsection 2 of section 42 of The Liquor Control Act,

 R.S.O. 1960, c. 217

notwithstanding that the grounds for refusal, suspension or cancellation existed at the time the licence was issued.

- (2) A notice of a hearing under subsection 1 relating to a Notice of refusal to renew or the suspension or cancellation of a licence shall be served personally or by registered mail on the licensee and shall afford to him a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.
- (3) A licence issuer shall afford to an applicant or licensee Examination who will be affected by a decision pursuant to adocumentary hearing by the licence issuer, or to his representative, an opportunity to examine, before the hearing, any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.
- 6e. Where a licensed tourist establishment is sold Transfer or legal ownership thereof passes, the purchaser or other person to whom the legal ownership has passed is entitled to obtain a transfer of the licence from the proper licence issuer upon application therefor in the prescribed form and payment of the prescribed fee if he would have been entitled to be issued the licence if he were making an initial application

therefor and surrenders the existing licence, and the provisions of section 6b apply to his application.

Appeal to judge

6f.—(1) Where a licence issuer has,

- (a) refused to issue or renew a licence;
- (b) suspended or cancelled a licence; or
- (c) refused to transfer a licence,

the owner, lessee or operator of the tourist establishment to which the licence relates may, within fifteen days after receipt of the decision of the licence issuer, appeal to the judge of the county or district court of the county or district in which the tourist establishment is situate by sending a notice of appeal specifying the grounds of his appeal by registered mail to the Deputy Minister of Tourism and Information and filing a copy thereof in the office of the clerk of the court.

Parties

(2) The Minister represented by such person as he may nominate and the person filing the notice of appeal are parties to an appeal under this section.

Hearing

(3) Where an appeal is brought under this section, the judge shall appoint a time and a place for and shall hear the appeal by way of a hearing *de novo* and may by order direct the licence issuer to take such action as the judge considers the licence issuer ought to take in accordance with this Act and the regulations and as the judge deems proper.

Burden of establishing grounds for refusal, etc. (4) Where the appeal is from a decision of a licence issuer refusing to renew or transfer or suspending or cancelling a licence, the Minister or his representative shall, on the hearing of the appeal, be deemed to be the complainant, and the burden of establishing the grounds for the refusal to renew or transfer or the suspension or cancellation shall be upon him, and the appellant shall be deemed to be the respondent.

Extension of time for hearing (5) A judge to whom an appeal may be taken under this section may extend the time for making the appeal, either before or after expiration of the time fixed therefor, where he is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

- (6) The oral evidence taken before the judge on an appeal Recording shall be recorded, and if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.
- (7) The findings of fact of a judge on an appeal shall Findings be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971.* 1971, c. ...
- 6g.—(1) Any party to proceedings before a judge under Appeal from section 6f may appeal from the decision or order of the judge judge to the Supreme Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge, if it is not part of the record of the judge, shall constitute the record in the appeal.
- (3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under be heard this section.
- (4) The Supreme Court may, on the appeal, exercise all Decision the powers of the judge appealed from or the court may refer the matter back to the judge for a rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- (4) Section 9 of *The Department of Tourism and Informa*-1966, c. 44, tion Act, 1966 is amended by adding thereto the following amended subsection:
 - (3) Nothing in this section authorizes an inspector to Entry of rented and enter any premises or dwelling unit forming part of occupied premises a tourist establishment that is rented and actually with consent occupied by a tourist or member of the public without the consent of the occupant, except under the authority of a warrant issued under section 14 R.S.O. 1960, of The Summary Convictions Act.
- (5) The Department of Tourism and Information Act, 1966 1966, c. 44, is amended by adding thereto the following section:
 - 9a.—(1) Notwithstanding section 6d, an inspector, by Provisional notice delivered to the operator of a tourist establish-of licence

ment, may provisionally suspend the licence to operate the establishment if he believes on reasonable grounds that the continued operation of the establishment will be dangerous to the safety or health of any person and, upon delivery of such notice to the operator, the suspension takes effect.

Hearing

(2) Where an inspector has provisionally suspended a licence to operate a tourist establishment under subsection 1, he shall forthwith notify the licence issuer by whom the licence was issued and the licence issuer shall, as soon as is practicable, hold a hearing and determine whether the licence should be suspended or cancelled under this Act, and the provisions of sections 6d, 6f and 6g apply to such proceedings and to the decision of the licence issuer.

1966, c. 44, s. 10, subs. 3, re-enacted (6) Subsection 3 of section 10 of *The Department of Tourism* and *Information Act*, 1966 is repealed and the following substituted therefor:

Acquisition of land R.S.O. 1960, c. 338, 1968-69, c. 36

(3) Lands may be acquired for the purposes of this section under *The Public Works Act* and, where expropriated, *The Expropriations Act*, 1968-69 applies.

1966, c. 44, s. 12, subs. 1, cl. a, re-enacted

- (7) Clause a of subsection 1 of section 12 of The Department of Tourism and Information Act, 1966 is repealed and the following substituted therefor:
 - (a) providing for the issuance of permits and licences and prescribing the terms and conditions of permits or licences or any class thereof.

1966, c. 44, s. 12, subs. 1, cl. *m*, repealed (8) Clause m of subsection 1 of the said section 12 is repealed.

1962-63, c. 36, s. 1, amended **32.**—(1) Section 1 of *The Deposits Regulation Act, 1962-63* is amended by adding thereto the following clauses:

- (aa) "business premises" does not include any dwelling;
- (da) "dwelling" means any premises or any part thereof occupied as living accommodation.

1962-63, c. 36, s. 5, subs. 5, re-enacted

(2) Subsection 5 of section 5 of *The Deposits Regulation* Act, 1962-63 is repealed and the following substituted therefor:

Powers on inspection

(5) For purposes relevant to the subject-matter of an investigation under subsection 4, the representative

SECTION 32.

- 1. The powers of investigation of the representative of the Commission are clarified to restrict them to matters relevant to the subject-matter of the investigation and to the powers conferred under Part II of *The Public Inquiries Act, 1971*.
- 2. A search warrant may be obtained in defined circumstances on the order of a provincial judge.
- 3. Information obtained as a result of an investigation under the Act is to be kept confidential.



of the Commission may inquire into and examine the affairs of the person or corporation whose affairs are being investigated and may,

- (a) upon production of his authorization from the Commission, enter at any reasonable time the business premises of such person or corporation and examine books, papers, documents and things relevant to the subject-matter of the investigation:
- (b) inquire into,
 - (i) negotiations, investigations, transactions, loans, borrowings and payments to, by, or on behalf of or in relation to or connected with such person or corporation and into any property, assets or things owned, acquired or alienated in whole or in part by such person or corporation or any person or company acting on his or its behalf that are relevant to the subject-matter of the investigation, and
 - (ii) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or corporation and any other person or corporation and the relationship that may at any time exist or have existed between such person or corporation and any other person or corporation by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.
- (6) No person shall obstruct a person making an investi-Offence gation under subsection 4 or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Powers under 1971, c. . . . , Pt. II (7) For the purposes of an investigation under this section, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such investigation as if it were an inquiry under that Act.

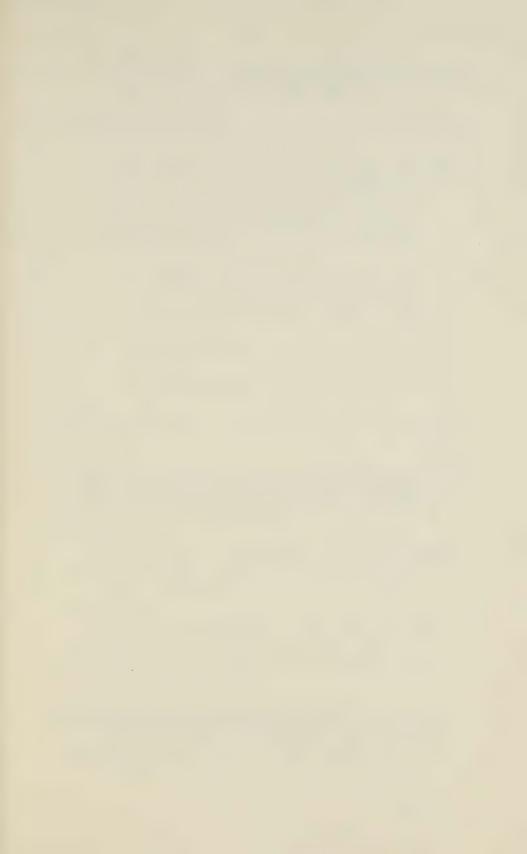
Search warrant (8) Where a provincial judge is satisfied, upon an ex parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person or corporation whose affairs are being investigated and that relate to the subjectmatter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 5, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the judge, by the order, authorizes the person making the investigation, to make the search at night.

Removal of books, etc.

(9) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 5 or subsection 8 relating to the person or corporation whose affairs are being investigated and that relate to the subjectmatter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person or corporation whose affairs are being investigated.

Admissibility

(10) Any copy made as provided in subsection 9 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.



Section 33. The powers of a council to subpoena witnesses and require evidence on oath are defined by reference to Part II of *The Public Inquiries Act. 1971*.

Section 34. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63*, and are explained in the explanatory note to section 9 of this Bill.

- (11) The Commission may appoint any expert to examine Appointment books, papers, documents or things examined under clause *a* of subsection 5 or subsection 8
- (3) The Deposits Regulation Act, 1962-63 is amended by $^{1962-63, c. 36}$, adding thereto the following section:
 - 5a. Every person employed in the administration of this Matters Act, including any person making an investigation or inquiry under this Act shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, investigation or inquiry and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations, or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.
- (4) Clause f of section 8 of The Deposits Regulation Act, $\frac{1962-63}{\text{s. 8, cl. }f}$, repealed.
- 33. Section 14 of The Dog Tax and Live Stock and Poultry R.S.O. 1960, Protection Act, as amended by section 9 of The Dog Tax and re-enacted Live Stock and Poultry Protection Amendment Act, 1965, is repealed and the following substituted therefor:
 - 14.—(1) The council of a municipality may conduct an Inquiry to inquiry in order to ascertain the owner of a dog owner of dog that has killed or injured live stock or poultry within the municipality.
 - (2) The council of a municipality for the purposes of Powers on an inquiry under subsection 1 has the powers of a commission under Part II of *The Public Inquiries*Act, 1971, which Part applies to such inquiry as if it 1971, c. ...

 were an inquiry under that Act.
- **34.**—(1) Section 1 of *The Edible Oil Products Act* is R.S.O. 1960, amended by adding thereto the following clauses:
 - (aa) "chief inspector" means the chief inspector appointed under this Act;

1965, c. 72

- (ab) "Commission" means The Milk Commission of Ontario established by The Milk Act, 1965;
- (da) "licence" means a licence under this Act.

R.S.O. 1960, c. 115, s. 4, re-enacted (2) Section 4 of *The Edible Oil Products Act* is repealed and the following substituted therefor:

Licence required 4. No person shall manufacture or sell by wholesale an edible oil product to which this Act applies without a licence therefor from the chief inspector.

R.S.O. 1960, c. 115, amended (3) The Edible Oil Products Act is amended by adding thereto the following sections:

Licence,

- 4a.—(1) The chief inspector shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing,
 - (a) he finds that;
 - the applicant was previously the holder of a licence and such licence was cancelled under this Act; or
 - (ii) the applicant or, where the applicant is a corporation, any officer, director or servant thereof or any person who will be in any way associated with the applicant in the operations pursuant to the licence was convicted of an offence under this Act.

and in his opinion the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

- (b) he is of opinion that,
 - (i) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law; or
 - (ii) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

- (2) Subject to section 4b, the chief inspector shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 4b.—(1) The chief inspector may refuse to renew or may Refusal to renew. suspend or cancel a licence if, after a hearing, he suspension finds that.
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction or associated with him in connection with his or its operations as a licensee to contravene any provision of this Act or the regulations or a term or condition of the licence or has been convicted of an offence under this Act and such contravention or conviction in his opinion warrants such refusal to renew, suspension or cancellation of the licence: or
 - (b) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.
- (2) Notwithstanding subsection 1, the chief inspector, Provisional by notice to a licensee and without a hearing, may etc. provisionally refuse to renew or suspend the licensee's licence where in the opinion of the chief inspector it is necessary to do so for the immediate protection of the safety or health of any person or the public and he so states in such notice giving his reasons therefor, and thereafter the chief inspector shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.
- (3) Subject to subsection 2, where, within the time Continuation of licence prescribed therefor or, if no time is prescribed, pending renewal before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal.

Notice of hearing

4c.—(1) The notice of a hearing by the chief inspector under section 4a or section 4b shall afford the applicant or licensee reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by chief inspector

4d. Where the chief inspector has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but he shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Appeal to Commission

4e.—(1) Where the chief inspector refuses to issue or renew, or suspends or cancels a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Commission within fifteen days after receipt of the decision of the chief inspector, appeal to the Commission.

Extension of time for appeal

(2) The Commission may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Disposal of appeal

(3) Where an applicant or licensee appeals to the Commission under this section, the Commission shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and as the Commission considers proper, and, for such purpose, the Commission may substitute its opinion for that of the chief inspector.

- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending chief inspector, unless the chief inspector otherwise of appeal directs, the decision of the chief inspector is effective until the appeal is disposed of.
- 4f.—(1) The chief inspector, the appellant and such other Parties persons as the Commission may specify are parties to the proceedings before the Commission under this Act.
- (2) Members of the Commission assigned to render a Members decision after a hearing shall not have taken part decision not to have prior to the hearing in any investigation or con-taken part sideration of the subject-matter of the hearing and gation, etc. shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Commission at a Recording of evidence hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Commission pursuant to Findings a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure 1971, c.... Act, 1971.
- (5) No member of the Commission shall participate in a Only members at decision of the Commission pursuant to a hearing unless hearing to hearing to hearing the indecision evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.
- 4g.—(1) Any party to the hearing before the Commission Appeal to court may appeal from the decision of the Commission to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister otherwise, on the argument of an appeal under this be heard section.

Record to be filed in court (3) The chairman of the Commission shall certify to the Registrar of the Supreme Court the record of the proceedings before the Commission which, together with a transcript of the evidence before the Commission, if it is not part of the Commission's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Commission or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Commission for reconsideration by the Commission as the court considers proper, and the court may substitute its opinion for that of the chief inspector or the Commission.

Effect of decision of Commission pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commission, unless the Commission otherwise directs, the decision of the Commission is effective until the appeal is disposed of.

R.S.O. 1960, c. 115, s. 6, subs. 1, re-enacted (4) Subsection 1 of section 6 of *The Edible Oil Products Act* is repealed and the following substituted therefor:

Inspectors, etc., appointment

(1) The Lieutenant Governor in Council may appoint a chief inspector and such inspectors and analysts as are deemed necessary for the administration and enforcement of this Act and the regulations.

1966, c. 50, s. 2, re-enacted **35.**—(1) Section 2 of *The Elderly Persons Centres Act,* 1966, as amended by section 2 of *The Elderly Persons Centres Amendment Act,* 1970, is repealed and the following substituted therefor:

Approval of corporation

2.—(1) Where the Lieutenant Governor in Council is satisfied that any corporation is, with assistance in accordance with this Act, financially capable of establishing, maintaining and operating a centre and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation as a corporation for the purpose of the Act.

Approval of building

(2) Where the Lieutenant Governor in Council is satisfied that a building or premises is suitable for providing accommodation as a centre in accordance with this Act and the regulations, he may approve such building or premises as a centre for the purposes of this Act.

Section 35. Principles are stated to govern the decision of the Lieutenant Governor in Council in giving approval of a corporation to operate a charitable institution and of buildings for the institution. Grounds for suspension or revocation of an approval are set out. A procedure requiring that an inquiry be held before suspension or revocation is proposed.



- (3) An approval given under subsection 2 or section 2a Effective may take effect on any date fixed by the Lieutenant approval Governor in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under subsection 1 to the corporation maintaining and operating the centre or the date of the approval given under section 2a to the municipal by-law establishing the centre, as the case may be.
- (2) Section 6a of The Elderly Persons Centres Act, 1966, 1966, c. 50, as enacted by section 6 of The Elderly Persons Centres Amend-(1970, c. 82, ment Act, 1970, is repealed and the following substituted re-enacted therefor:
 - 6a.—(1) Subject to this section, any approval given under Suspension this Act may be suspended by the Minister or revoked of approval by the Lieutenant Governor in Council on the recommendation of the Minister if.
 - (a) any director, officer or servant of the approved corporation or municipality has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or
 - (b) the approval would be refused if application were being made for it in the first instance.
 - (2) Subject to subsection 6 and except where an ap-Hearing proval is suspended or revoked with consent, before suspending, or before recommending to the Lieutenant Governor in Council revocation of an approval to a corporation or to a centre operated by an approved corporation given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person appointed by the Minister.
 - (3) Sections 4 to 16 and 21 to 24 of *The Statutory Powers* Application *Procedure Act, 1971* apply with respect to a hearing under this section.
 - (4) The person conducting a hearing under this section Report shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of

fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations and his recommendations as to the suspension or revocation of the approval and shall send a copy of his report to the persons affected.

Decision of Minister

(5) After considering a report made to him under this section, the Minister may thereupon suspend or recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension

(6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the health or safety of any person or to the public and the Minister so states in such notice giving his reasons therefor; and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

1966, c. 50, s. 7, cl. *k*, repealed

(3) Clause k of section 7 of The Elderly Persons Centres Act, 1966 is repealed.

R.S.O. 1960, c. 121, s. 3, re-enacted

36.—(1) Section 3 of *The Employment Agencies Act* is repealed and the following substituted therefor:

Licence, issue

- 3.—(1) Subject to section 6, an applicant for a licence to carry on a class of employment agency who,
 - (a) applies in the prescribed form;
 - (b) pays the prescribed fee;
 - (c) furnishes such security as is prescribed by the regulations; and
 - (d) complies with the qualifications prescribed by the regulations,

is entitled to be issued such licence by the supervisor.

Renewal

(2) Subject to section 6a, a licensee who applies for a renewal of his licence in accordance with this Act and the regulations and pays the prescribed fee is entitled to renewal of his licence by the supervisor.

SECTION 36.

- 1. A right to a licence to carry on an employment agency and to the renewal thereof is conferred subject to specified grounds for refusal.
- 2. The grounds for suspension or revocation of a licence are specified with more particularity than at present.
- 3. Where a licensee has duly applied for renewal of his licence, it is continued until the application is disposed of.
- 4. The supervisor is required to serve notice of a proposal to refuse to issue or renew or to suspend or revoke a licence. The applicant or licensee may require a hearing by a county or district court judge and procedural provisions supplementing *The Statutory Powers Procedure Act, 1971* are proposed.
- 5. Special rules for proceedings of judicial tribunals recommended by the McRuer Report No. 1 are proposed.
- 6. An appeal from a decision of the judge is provided to the Divisional Court.
- 7. Power is given provisionally to suspend a licence in emergency circumstances with a hearing to be held thereafter.



- (2) Section 6 of *The Employment Agencies Act* is repealed R.S.O. 1960, and the following substituted therefor:
 - 6. Subject to section 6b, the supervisor may refuse to Refusal issue a licence to an applicant who otherwise has licence complied with the requirements of section 3 if in his opinion,
 - (a) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the employment agency in accordance with law and with honesty and integrity; or
 - (b) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the carrying on of the employment agency; or
 - (c) where the applicant is a corporation,
 - (i) the past conduct of its officers or directors affords reasonable grounds for belief that the employment agency will not be carried on by it in accordance with law or with honesty and integrity, or
 - (ii) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the carrying on of the employment agency.
 - 6a. Subject to section 6b, the supervisor may refuse to Suspension, renew or may suspend or revoke a licence if in etc. his opinion,
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has knowingly permitted any person under his control or direction or associated with him in the carrying on of the employment agency carried on pursuant to the licence to contravene any provision of this Act or of the regulations or of any other Act or regulations applying to the carrying on of the employment agency and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or

(b) the licence would be refused under section 6 if the licensee were making application for it in the first instance.

Notice of proposal to refuse or revoke 6b.—(1) Where the supervisor proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee informing him that he has a right to a hearing by a judge of the county or district court of the county or district in which he intended to carry on or carried on his employment agency under the licence if he applies to the judge within fifteen days after service of the notice by the supervisor, and the applicant or licensee may within such time apply to the judge for a hearing.

Powers of supervisor where no hearing (2) Where an applicant or licensee does not apply for a hearing in accordance with subsection 1, the supervisor may carry out the proposal stated in his notice under subsection 1.

Powers of judge where hearing (3) Where an applicant or licensee applies to a judge for a hearing in accordance with subsection 1, the judge shall appoint a time for and hold the hearing and, on the application of the supervisor at the hearing, may by order direct the supervisor to carry out his proposal or refrain from carrying out his proposal and to take such action as the judge considers the supervisor ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the supervisor.

Service of

(4) The supervisor may serve notice under subsection 1 personally or by registered mail addressed to the applicant or licensee at his address last known to the supervisor and where notice is served by registered mail the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for hearing (5) A judge to whom application is made by an applicant or licensee for a hearing under subsection 1 may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie*

grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

- (6) Where, within the time prescribed therefor or, if no continuation of licences time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the supervisor proposes to refuse to grant the renewal, until the time for applying to a judge for a hearing expires and, where a hearing is applied for, until the judge has made his order.
- 6c.—(1) The supervisor, the applicant or licensee who Parties has applied for the hearing and such other persons as the judge may specify are parties to the proceedings before a judge under section 6b.
- (2) Notice of a hearing under section 6b shall afford to the When notice applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (3) An applicant or licensee who is a party to proceedings Examination under section 6b shall be afforded an opportunity documentary to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- (4) The oral evidence taken before the judge at a hearing Recording shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.
- (5) The findings of fact of a judge pursuant to a hearing Findings shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971.* 1971, c. ...
- 6d.—(1) Any party to proceedings before a judge may Appeal from appeal from the decision or order of the judge to judge the Supreme Court in accordance with the rules of court.

Record to be filed in court (2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Representations by Minister (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Decision

(4) The Supreme Court may, on the appeal, exercise the powers of the judge appealed from and for such purpose the court may substitute its opinion for that of the supervisor or of the judge or the court may refer the matter back to the judge for a hearing, in whole or in part, in accordance with such directions as the court considers proper.

Provisional order of supervisor 6e. Notwithstanding section 6b, the supervisor, by notice to a licensee, and without a hearing, may provisionally refuse renewal of or suspend the licensee's licence where the carrying on of the employment agency under the licence is, in the supervisor's opinion, an immediate threat to the interests of persons dealing with the agency or to the public interest and the supervisor so states in the notice giving his reasons therefor, and thereafter sections 6b, 6c and 6d apply as if the notice given under this section were a notice of a proposal to revoke the licence served under subsection 1 of section 6b.

R.S.O. 1960, c. 121, s. 9, cl. *l*, repealed (3) Clause l of section 9 of The Employment Agencies Act is repealed.

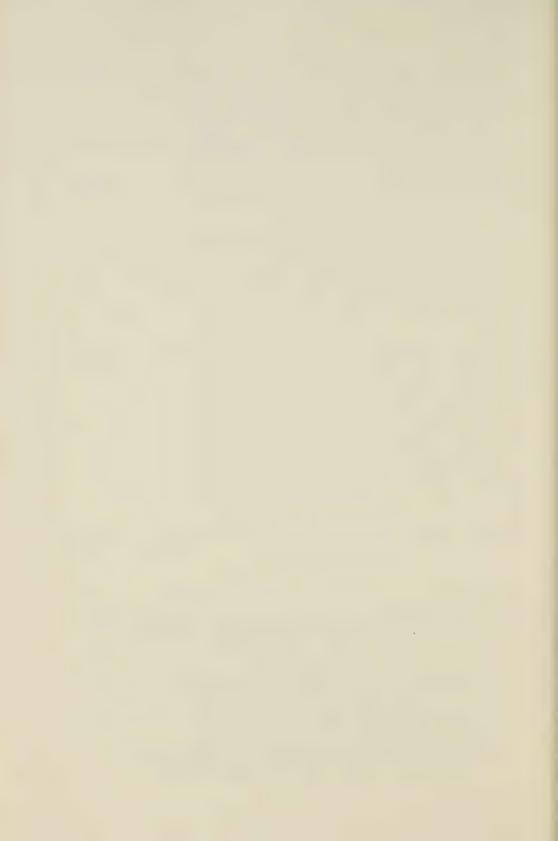
1968, c. 35, s. 5 (1970, c. 45, s. 3), cl. a, re-enacted

- **37.**—(1) Clause a of section 5 of The Employment Standards Act, 1968, as re-enacted by section 3 of The Employment Standards Amendment Act, 1970, is repealed and the following substituted therefor:
 - (a) summon and examine witnesses and require them to produce such documents and things as he considers requisite to the full investigation and consideration of the matter or thing he is authorized to inquire into and for such purpose he has the powers of a commission in Part II of *The Public Inquiries Act*, 1971, which Part applies to his inquiry as if it were an inquiry under that Act.

1971, c. . . .

SECTION 37.

- 1. The powers of a person conducting an inquiry under section 5 of the Act to summon witnesses and require production of documents are defined by reference to Part II of *The Public Inquiries Act, 1971*.
- 2. Section 5 confers powers to determine certain matters and the amendment proposes that a hearing should be afforded to persons interested.
- 3. An investigation by a board of amounts alleged to be owing to a female employee because of discrimination is made subject to the provisions of *The Statutory Powers Procedure Act*, 1971.
- 4. Determination of the amount owing to an employee by reason of failure to comply with the provisions of the Act is made subject to appeal to the Divisional Court in the place of the Court of Appeal as at present.



- (2) The said section 5 is amended by adding thereto the $^{1968, c. 35, s. 5}_{(1970, c. 45, s. 3)}$ following subsections:
 - (2) Before making a determination under subsection 1, Hearing the Director or the person designated to do so shall afford to the persons who will be affected by the determination an opportunity for a hearing.
 - (3) Where a group of persons having the same interest Persons to will be affected by a determination under subsection 1 and such group of persons have not specified a person to represent all persons in the group, the Director or the person designated to make the determination may, if he considers it proper, specify one or more persons to represent all persons constituting the group in the proceedings in which such determination is to be made and all persons so represented are parties to the decision.
- (3) Subsections 3 and 4 of section 20 of *The Employment* 1968, c. 35, *Standards Act*, 1968 are repealed and the following substituted subss. 3, 4, therefor:
 - (3) The board shall investigate the amount of moneys Recommendations owing to an employee under section 19 and, after a to Director hearing, shall make recommendations to the Director as to the determination he should make and the Director may, after considering such recommendations, make his determination.
 - (4) Sections 4 to 18 and 20 to 24 of *The Statutory* Application *Powers Procedure Act, 1971* apply to the proceedings of the board as if it were a tribunal exercising a statutory power of decision and for such purpose the recommendations of the board shall be deemed to be a decision of the board.
- (4) Subsections 4, 5 and 6 of section 28 of *The Employment* ^{1968, c. 35, s. 28 (1970, Standards Act, 1968, as re-enacted by section 8 of *The Employ*-c. 45, s. 8), subss. 4-6, ment Standards Amendment Act, 1970, are repealed and the re-enacted following substituted therefor:}
 - (4) Where an employer has applied under subsection 3 Review of for a review of a determination made under subsection 1, the Minister shall designate a person to review the determination and such person may, after hearing the parties, vary, rescind or confirm the amount payable by the employer and for such purpose the person designated may exercise any of the powers conferred by clauses c to h of section 5.

Appeal

- (5) An employer who is dissatisfied with a decision made under subsection 4 may appeal from the decision to the Supreme Court, within fifteen days from the day he received the decision, upon the grounds that the decision is,
 - (a) erroneous in point of law; or
 - (b) in excess of jurisdiction or otherwise unauthorized.

Stated case

(6) Upon the request of an employer desiring to appeal to the Supreme Court, the person who made the decision under subsection 4 shall state a case setting forth the facts as found and the grounds upon which the decision is questioned.

1968, c. 35, s. 28 (1970, c. 45, s. 8), subs. 8, re-enacted

(5) Subsection 8 of the said section 28 is repealed and the following substituted therefor:

Order of court

(8) The Supreme Court shall hear and determine the appeal in accordance with the rules of court and may make such order as the court considers proper or may refer the matter or any part thereof to the person who made the decision appealed from to review the determination with such directions as the court considers proper.

Minister entitled to be heard (8a) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

1966, c. 54, s. 1, amended

- **38.**—(1) Section 1 of *The Family Benefits Act, 1966* is amended by inserting therein the following clause:
 - (da) "board of review" means the board of review established under this Act.

1966, c. 54, s. 3, subs. 1, re-enacted (2) Subsection 1 of section 3 of *The Family Benefits Act*, 1966 is repealed and the following substituted therefor:

Duties of Director (1) The Director shall perform such duties and exercise such powers under this Act as are conferred or imposed by this Act and the regulations.

1966, c. 54, s. 3, amended (3) The said section 3, as amended by section 1 of *The Family Benefits Amendment Act*, 1968, is further amended by adding thereto the following subsection:

SECTION 38.

- 1. The main powers of the Director are specified with greater particularity.
- 2. The grounds for refusal or for suspension or cancellation of a benefit are transferred from the regulations to the Act.
- 3. The Director shall not refuse an appeal for a benefit or suspend or cancel a benefit until after notice to the recipient and an opportunity afforded to him to make written representations.
- 4. Where the Director varies a benefit he is required to give notice thereof together with his reasons to the recipient.
- 5. Where a benefit is refused, varied, suspended or cancelled, the applicant or recipient may request a hearing by the Board of Review.
- 6. Procedural provisions supplementing The Statutory Powers Procedure Act, 1971 are proposed.
- 7. An appeal lies from the Board of Review to the Divisional Court on any question that is not a question of fact alone.



- (4) Any decision made by a person performing duties or Decision exercising powers of the Director under subsection 2 Director or 3 shall be deemed to be a decision of the Director for the purposes of this Act.
- (4) Subsection 1 of section 7 of *The Family Benefits Act*, 1966, c. 54, 1966 is amended by striking out "An allowance shall and amended other benefits may be provided in accordance with the regulations to any person in need who is resident in Ontario as determined by the regulations and" in the first, second, third and fourth lines and inserting in lieu thereof "An allowance shall and other benefits may be provided in accordance with the regulations to any person in need who is resident in Ontario and"
- (5) The Family Benefits Act, 1966 is amended by adding 1966, c. 54, thereto the following sections:

10a. The Director shall,

Application for and determination of benefits

- (a) receive applications for benefits; and
- (b) in accordance with this Act and the regulations,
 - (i) determine whether any person is entitled to or eligible to receive a benefit,
 - (ii) where an applicant is so entitled or eligible, determine the amount of the allowance or other benefit and direct provision thereof, and
 - (iii) from time to time vary the amount or benefit so determined.
- 10b. Subject to section 10c, the Director may refuse to Refusal or provide or may suspend or cancel a benefit where, of benefit
 - (a) the applicant or recipient is not or ceases to be entitled thereto, or eligible therefor, under this Act or the regulations;
 - (b) the applicant or recipient is absent from Ontario;
 - (c) the applicant or recipient fails to provide to the Director or his representative, including a field worker, the information required to determine initial or continuing entitlement to or eligibility for a benefit or the amount of an allowance; or

(d) any other ground for refusal, suspension or cancellation specified in the regulations exists.

Notice of proposal to suspend, etc. 10c.—(1) The Director shall not refuse an application for a benefit or suspend or cancel a benefit until more than ten days have elapsed after he has given notice of a proposal to do so, together with his reasons therefor, to the applicant or recipient.

Contents of notice (2) A notice under subsection 1 shall inform the applicant or recipient that he may within ten days after receipt by him of the notice, file with the Director written representations against the proposed action.

Powers of Director

- (3) Where an applicant or recipient,
 - (a) does not file representations with the Director within ten days after receipt by him of a notice under subsection 1; or
 - (b) has so filed such representations and the Director has given consideration to them,

the Director may carry out the proposed action, and shall give notice of his decision, together with the reasons therefor to the applicant or recipient.

Notice of variation

(4) Where the Director varies the amount of any allowance or benefit, he shall give notice of such variation, together with his reasons therefor, to the recipient.

Notice of decision

(5) A notice under subsection 3 or 4 shall inform the applicant or recipient that he is entitled to a hearing by the board of review if he delivers or mails to the chairman of the board a request therefor in the prescribed form within thirty days after receipt by him of the notice and an applicant or recipient who so mails or delivers such a request is entitled to a hearing by the board.

Extension of time for requesting hearing (6) The board may extend the time for giving notice by an applicant or recipient under subsection 5 either before or after expiration of the time therein specified where it is satisfied there are *prima facie* grounds for claiming relief pursuant to a hearing or for appeal and that there are reasonable grounds for applying for the extension.

- (7) A notice by the Director under this section may be How notice given by delivering it personally or by sending it by given prepaid mail addressed to the applicant or licensee at his address last known to the Director and, where notice is sent by mail, the notice shall be presumed to have been received on the third day after the day of mailing unless the person to whom notice is given did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice until a later date.
- (8) A decision of the Director under this section shall Effective date of be effective from such date either before or after the decision date of the making of the decision as the Director may fix.
- (9) The Statutory Powers Procedure Act, 1971 does not 1971, c. ... apply to proceedings of the Director under this apply section.
- (10) This section does not apply to refusal of an applica- Application tion for or cancellation of a benefit on the death of the applicant or recipient.
- (6) Subsection 5 of section 11 of *The Family Benefits Act*, 1966, c. 54, 1966, as enacted by section 2 of *The Family Benefits Amend*-(1968, c. 39, ment Act, 1968, is repealed and the following substituted subs. 5, therefor:
 - (5) The chairman of the board of review may authorize One or one or more members of the board to conduct a members may conduct hearing and such member or members has or have hearing all the powers of the board for the purpose of such hearing and any decision of such member or members shall be a decision of the board.
- (7) Sections 11a and 11b of The Family Benefits Act, 1966, 1966, c. 54, as enacted by section 2 of The Family Benefits Amendment Act, (1968, c. 39, 1968, are repealed and the following substituted therefor: re-enacted
 - 11a.—(1) Where an applicant or recipient files a request Review for a hearing in accordance with section 10c, the board of review shall fix a time for and hold a hearing to review the decision of the Director.
 - (2) The Director, the applicant or recipient who requested Parties the hearing and such other persons as the board may specify are parties to the proceedings before the board of review.

Hearings in camera

1971, c. . . .

(3) Notwithstanding *The Statutory Powers Procedure* Act, 1971, all hearings of the board of review shall be heard in camera.

Members
holding
hearing
not to
have taken
part in
prior con-

sideration of matter

- (4) Subject to subsection 5, members of the board holding a hearing,
 - (a) shall not have taken part in any investigation or consideration of the subject-matter of the hearing prior to the hearing; and
 - (b) shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate.

Legal

(5) The board of review may seek legal advice from an adviser independent from the parties and members of the board may at any time consult with other members of the board.

Submission by Director (6) The Director may make his submissions at a hearing of the board of review in writing, but the applicant or recipient who is a party to the hearing shall be afforded an opportunity to examine before the hearing any such submission or any written or documentary evidence that the Director proposes will be produced or any report the contents of which the Director proposes will be given in evidence at the hearing.

Recording of evidence

- (7) The oral evidence taken before the board of review at a hearing shall be recorded,
 - (a) by notes taken by or under the supervision of the members of the board conducting the hearing; or
 - (b) in such other manner as such members may direct, in which case copies of a transcript shall, on request, be furnished upon the same terms as in the Supreme Court.

Findings of fact (8) The findings of fact of the board of review pursuant to a hearing under this section shall be based exclusively on evidence admissible and facts of which notice may be taken under sections 15 and 16 of The Statutory Powers Procedure Act, 1971.

1971, c. . . .

- (9) No member of the board of review shall make any Only members at decision of the board pursuant to a hearing under hearing to participate this section unless he was present throughout the in decision hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the board shall be given unless all members so present take part in the decision.
- (10) Where, after a hearing, the board of review has Powers of board after reviewed the decision of the Director, the board may, hearing
 - (a) affirm the decision;
 - (b) rescind the decision and direct the Director to make any other decision that the Director is authorized to make under this Act and the regulations and as the board considers proper and for such purpose the board may substitute its opinion for the opinion of the Director; or
 - (c) refer the matter back to the Director for reconsideration in accordance with such directions as the board considers proper under this Act and the regulations,

and the Director shall give effect to any directions given by the board under this section.

- (11) The board of review may, on application of any Variation party, reconsider and vary any decision made by by board it after hearing the parties to the proceedings in which the original decision was made, and the provisions of this section, except subsection 4, apply mutatis mutandis to the proceedings on such reconsideration.
- 11b.—(1) Any party to the proceedings before the board Appeal of review under section 11a may appeal from the decision of the board to the Supreme Court on a question that is not a question of fact alone in accordance with the rules of court.
 - (2) Where any party appeals from a decision of the Record to board of review, the board shall forthwith file with in court the Registrar of the Supreme Court the record of the proceedings before it in which the decision was made, which together with the transcript of the evidence, if any, before the board if it is not part of the board's record, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal (4) On an appeal under this section, the court may affirm the decision of the board of review or may rescind it and refer the matter back to the board or to the Director to be disposed of in accordance with such directions as the court considers proper under this Act and the regulations, and the board or the Director shall give effect to any direction given by the court under this section.

Effect of decision pending disposal of appeal 11c. Notwithstanding that an applicant or recipient has requested a hearing by the board of review under section 11a, or has appealed from a decision of the board under section 11b, the decision of the Director or of the board, as the case may be, is effective until the decision of the board is made after the hearing or the decision of the court is made on the appeal, as the case may be.

Recovery of overpayments, etc. 11d. Notwithstanding section 5 and subject to the regulations, the Director may recover from a recipient any sum paid to him by way of an allowance under this Act or any predecessor Act mentioned in subsection 1 of section 14 to which he was not entitled under this Act or such predecessor Act or in excess of any amount to which he was so entitled, whether by reason of non-disclosure of facts, misrepresentation or fraud, or for any other cause disentitling him to such an allowance, by reducing or suspending any allowance payable to the recipient or by proceedings to recover such sum as a debt due to the Crown in any court of competent jurisdiction.

Further application

11e. Notwithstanding any decision of the Director, the board of review or of the court, a further application for a benefit may be made to the Director by the applicant or recipient upon new or other evidence or where material circumstances have changed.

1966, c. 54, s. 13, amended (8) Section 13 of *The Family Benefits Act, 1966* is amended by striking out "The Lieutenant Governor in Council may make such regulations with respect to benefits as are deemed necessary for carrying out the purposes of this Act, and in particular" in the first, second and third lines and inserting in lieu thereof "The Lieutenant Governor in Council may make regulations".



 $S_{\tt ECTION}$ 39. A hearing is required before revoking a certificate of exemption of a fire fighter from jury duty or serving as a constable.

Section 40. Power to forfeit fish or containers is clarified to apply only to fish or containers in relation to which an offence is committed.

(9) Clause e of the said section 13 is repealed.

1966, c. 54, s. 13, cl. *e*, repealed

- (10) Clause n of the said section 13 is repealed and the $\frac{1966, c. 54}{s. 13, cl. n}$, following substituted therefor:
 - (n) providing for the reinstatement and transfer of allowances and other benefits.
- **39.** Section 2 of *The Fire Fighters' Exemption Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 2.—(1) Upon complaint to the council of neglect of Forfeiting duty by a member of such fire company, the council after hearing shall examine into the complaint and, for any such cause and also in case a member of the company is convicted of a breach of any of the rules legally made for the regulation of the company, may, after a hearing, strike off the name of any such member from the list of the company and thenceforward the certificate granted to the member has no effect in exempting him from any duty or service.
 - (2) The member of the fire company against whom the Parties to complaint has been made and the complainant, if any, are parties to a hearing under subsection 1.
- **40.**—(1) Subsection 3 of section 4 of *The Fish Inspection* $^{\text{R.S.O. 1960}}_{\text{c. 150, s. 4}}$, $^{\text{c. 150, s. 4}}_{\text{c. peracted}}$ substituted therefor:
 - (3) Where a person is convicted of an offence under Disposal this Act or the regulations, any fish or containers seized seized under subsection 1 by means of or in relation to which the offence was committed, shall be ordered to be forfeited to Her Majesty by the court or judge convicting such person and may be disposed of as the Minister directs.
 - (4) Where a person pleads guilty to an offence against this Act or the regulations and fish or containers this Act or the regulations and fish or containers witted in were seized under subsection 1 by an inspector as fish seized being fish or containers by means of or in relation to which the offence was committed, it shall be presumed by the court or judge convicting such person, in the absence of evidence to the contrary, that the offence was committed by means of or in relation to such fish or containers.
 - (2) Section 11 of The Fish Inspection Act is repealed.

R.S.O. 1960, c. 150, s. 11, repealed 1968, c. 44, amended **41.** The Forest Fires Prevention Act, 1968 is amended by adding thereto the following section:

Appeal

23a.—(1) Any person who is refused a fire permit, a forest travel permit or a work permit by an officer, or who is aggrieved by the terms and conditions contained in such permit or whose fire permit, forest travel permit or work permit has been cancelled or suspended by an officer may appeal to the district forester for the forest district to which the permit relates from the decision of the officer, and the district forester shall hear the appeal and may affirm or vary the terms and conditions or the decision of the officer and may, if he rescinds the decision, grant a permit.

Parties

(2) The appellant and the officer from whose decision the appeal is taken are parties to an appeal under this section.

How appeal made

(3) An appeal under this section may be made in writing or orally or by telephone to the district forester, but the district forester may require the grounds for the appeal be made in writing before the hearing.

Decision of officer (4) Notwithstanding that an appeal has been brought, the decision of an officer relating to a permit, unless varied by the officer, is binding and effective until varied or rescinded by the district forester.

R.S.O. 1960, c. 153, s. 5, subs. 3, re-enacted **42.**—(1) Subsection 3 of section 5 of *The Forestry Act* is repealed and the following substituted therefor:

Cutting and removing trees

(3) The owner of a private forest reserve shall not cut or remove any trees growing thereon without the consent of the Minister who, in giving or refusing his consent, shall have regard to the sound management of the reserve for forestry purposes and the reasonable business requirements of the owner and who, where he refuses his consent, shall give reasons to the owner for his refusal.

R.S.O. 1960, c. 153, s. 9, cl. *g*, repealed (2) Clause g of section 9 of The Forestry Act is repealed.

1968-69, c. 41, s. 1, amended **43.**—(1) Section 1 of *The Gasoline Handling Act*, 1968-69 is amended by adding thereto the following subsection:

Chief officer (2) The Minister may designate an officer of the Department of Labour to be chief officer for the purposes of this Act.

Section 41. An appeal to the district forester is provided from the decision of an officer in refusing, suspending or cancelling a fire, forest travel or work permit.

Section 42. In refusing consent to cut or remove trees in a private forest reserve, the Minister is required to give reasons for his refusal.

SECTION 43.

- 1. A right to a licence under the Act and to the renewal thereof is conferred subject to specified grounds for refusal.
- The grounds for suspension or revocation of a licence are specified with more particularity than at present.
- 3. Where a licensee has duly applied for renewal, his licence is continued until the application is disposed of.
- 4. The chief officer is required to serve notice of a proposal to refuse to issue or renew or to suspend or revoke a licence before he takes any action. The applicant or licensee may require a hearing by a county or district court judge and procedural provisions supplementing *The Statutory Powers Procedure Act, 1971* are proposed.
- 5. Special rules for proceedings of judicial tribunals recommended by the McRuer Report No. 1 are proposed.
- 6. An appeal from a decision of the judge is provided to the Divisional Court.
- 7. Power is given provisionally to suspend a licence where there is an immediate threat to safety with a hearing to be held thereafter.
- 8. Under the Act, an inspector is authorized to give instructions to bring about compliance with the Act which it is an offence to disobey. The amendments propose an appeal from the inspector to the chief officer.



(2) Section 6 of The Gasoline Handling Act, 1968-69 is 1968-69, re-enacted repealed and the following substituted therefor:

6.—(1) No person shall,

Licence to operate station, etc.

- (a) operate a service station;
- (b) operate a marina;
- (c) operate a bulk plant; or
- (d) transport gasoline or an associated product,

unless licensed to do so by the chief officer.

(2) Subject to section 6a, any person who makes applica-Entitlement to licence tion for a licence for any of the purposes enumerated in subsection 1 in accordance with this Act and the regulations and pays the prescribed fee is entitled to be issued such licence by the chief officer.

(3) Subject to section 6b, a licensee who makes application Entitlement for a renewal of his licence in accordance with this of licence Act and the regulations and pays the prescribed fee is entitled to a renewal of his licence by the chief officer.

6a. Subject to section 6c, the chief officer may refuse to Refusal to issue licence issue a licence to an applicant who has otherwise complied with the requirements of section 6 if in his opinion the past conduct of the applicant or, where the applicant is a corporation, of its officers, directors or servants, affords reasonable grounds for belief that the operations to be carried on pursuant to the licence will not be carried on in accordance with law and in a safe manner.

6b. Subject to section 6c, the chief officer may refuse $_{
m etc., of}^{
m Suspension}$, to renew or may suspend or revoke a licence if in his $_{
m licence}^{
m Suspension}$, opinion the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has knowingly permitted any person under his control or direction or associated with him in the carrying on of operations pursuant to the licence to contravene any provision of this Act or of the regulations or of any other Act or regulations applying to the carrying on of such operations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision.

Notice of proposal to refuse or revoke 6c.—(1) Where the chief officer proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee informing him that he has a right to a hearing by a judge of the county or district court of the county or district in which he intended to carry on or carried on his operations under the licence if he applies therefor within fifteen days after service of the notice by the chief officer, and the applicant or licensee may within such time apply to the judge for a hearing.

Powers of chief officer where no hearing (2) Where an applicant or licensee does not apply for a hearing in accordance with subsection 1, the chief officer may carry out the proposal stated in his notice under subsection 1.

Powers of judge where hearing

(3) Where an applicant or licensee applies to a judge for a hearing in accordance with subsection 1, the judge shall appoint a time for and hold the hearing and, on the application of the chief officer at the hearing, may by order direct the chief officer to carry out his proposal or refrain from carrying out his proposal and take such action as the judge considers the chief officer ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the chief officer.

Service of

(4) The chief officer may serve notice under subsection 1 personally or by registered mail addressed to the applicant or licensee at his address last known to the chief officer and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice until a later date.

Extension of time for hearing (5) A judge to whom application is made by an applicant or licensee for a hearing under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

- (6) Where, within the time prescribed therefor or, if no Continuation of licences time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the chief officer proposes to refuse to grant the renewal, until the time for applying to a judge for a hearing expires and, where a hearing is applied for, until the judge has made his order.
- 6d.—(1) The chief officer, the applicant or licensee who Parties has applied for the hearing and such other persons as the judge may specify are parties to the proceedings before a judge under section 6c.
- (2) Notice of a hearing under section 6c shall afford to the Notice of applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (3) An applicant or licensee who is a party to pro-Examination ceedings under section 6c shall be afforded an op-documentary portunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- (4) The oral evidence taken before the judge at a hearing Recording shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.
- (5) The findings of fact of a judge pursuant to a hearing Findings shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971.* 1971, c. ...
- 6e.—(1) Any party to proceedings before a judge may Appeal from appeal from the decision or order of the judge to the judge Supreme Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in

which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Decision

(4) The Supreme Court may, on the appeal, exercise all the powers of the judge appealed from and for such purpose the court may substitute its opinion for that of the chief officer or of the judge or the court may refer the matter back to the judge for a rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Provisional order of chief officer 6f. Notwithstanding section 6c, the chief officer, by notice to a licensee and without a hearing, may provisionally refuse renewal of or suspend the licensee's licence where the carrying on of the operations under the licence is, in the chief officer's opinion, an immediate threat to public safety or the safety of any person and the chief officer so states in the notice giving his reasons therefor, and thereafter sections 6c, 6d and 6e apply as if the notice given under this section were a notice of a proposal to revoke the licence served under subsection 1 of section 6c.

1968-69, c. 41, s. 8, amended (3) Section 8 of *The Gasoline Handling Act, 1968-69* is amended by adding thereto the following subsections:

Appeal from instructions of inspector

(4a) Any person who considers himself aggrieved by any instructions given by an inspector under this section may forthwith appeal to the chief officer, but the bringing of such appeal does not affect the operation of the instructions appealed from until disposition of the appeal.

How made (4b) An appeal under subsection 4a may be made in writing or orally or by telephone, but the chief officer may require the grounds for appeal to be specified in writing before the hearing.

Parties

(4c) The appellant, the inspector from whom the appeal is taken and such other persons as the chief officer may specify are parties to an appeal under this section.



SECTION 44.

- 1. The main grounds for refusing to provide or suspending or cancelling assistance are transferred from the regulations to the Act.
- 2. Any applicant or recipient affected by a decision of a welfare administrator may request a hearing by the board of review established under *The Family Benefits Act, 1966*, and the provisions of that Act relating to hearings by the board and appeals from its decisions apply under this Act.

- (4d) On an appeal under this section, the chief officer Powers of chief officer shall hear and dispose of it as promptly as is on appeal practicable and may substitute his findings or opinions for those of the inspector who gave the instructions appealed from and may affirm or reverse such instructions or give new instructions in substitution therefor and for such purpose has all the powers of the inspector and the instructions of the chief officer shall stand in the place of and have like effect under this Act and the regulations as the instructions of the inspector.
 - (7) Subsection 6 does not, by reason of subsections 2 Crown not relieved of and 4 of section 5 of *The Proceedings Against the* liability *Crown Act*, 1962-63, relieve the Crown of liability ¹⁹⁶²⁻⁶³, c. 109 in respect of a tort committed by an inspector and to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 6 had not been enacted.
- (4) Clause j of section 9 of *The Gasoline Handling Act*, $^{1968-69}_{8.9}$, cl. j, repealed.
- **44.**—(1) The General Welfare Assistance Act is amended by R.S.O. 1960, c. 164, adding thereto the following section:
 - 6a. A municipal welfare administrator or a regional Administrator may, in writing, authorize any delegate person employed on his staff to exercise under his duties supervision and direction any of the powers conferred or the duties imposed on him under this Act or the regulations.
- (2) Section 7d of The General Welfare Assistance Act, as R.S.O. 1960, enacted by section 1 of The General Welfare Assistance Amend-(1968, c. 48, ment Act, 1968, is repealed and the following substituted re-enacted therefor:
 - 7d.—(1) In this section and section 7e, "welfare administrator" means municipal welfare administrator or trator regional welfare administrator, as the case may be.
 - (2) A welfare administrator may refuse to provide or Suspension, may suspend or cancel assistance under this Act assistance where,
 - (a) the applicant or recipient is not or ceases to be entitled thereto or eligible therefor under this Act or the regulations;

- (b) the applicant or recipient fails to provide to the welfare administrator or his representative the information required to determine initial or continuing entitlement to or eligibility for assistance or the amount of the assistance; or
- (c) any other ground for refusal, suspension or cancellation specified in the regulations exists.

Opportunity to make submissions (3) Where practicable, a welfare administrator shall afford an applicant for or recipient of assistance prescribed as general in the regulations an opportunity to make submissions before suspension, cancellation or refusal of the assistance to show why such action should not be taken and *The Statutory Powers Procedure Act, 1971* does not apply to proceedings of a welfare administrator under this section.

1971, c. . . .

(3) The General Welfare Assistance Act is amended by adding thereto the following sections:

Application for review

R.S.O. 1960, c. 164, amended

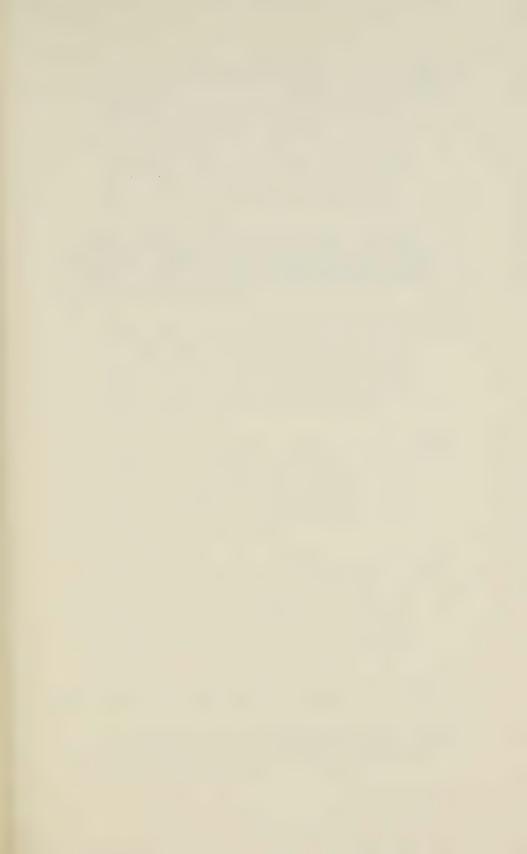
7e.—(1) Any applicant or recipient affected by a decision of a welfare administrator made under this Act or the regulations in respect of the payment of a class of assistance prescribed as general in the regulations may by notice mailed within thirty days after he receives notice of the decision to the chairman of the board of review established under The Family Benefits Act, 1966 request a hearing and review of the decision by the board and an applicant or recipient who so mails or delivers such request is entitled to a hearing by the board.

1966, c. 54

Extension of time for requesting hearing (2) The board of review may extend the time for giving notice by an applicant or recipient under subsection 1 either before or after expiration of the time therein specified where it is satisfied there are *prima facie* grounds for claiming relief pursuant to a hearing or for appeal and that there are reasonable grounds for applying for the extension.

Application of 1966, c. 54

(3) Where an applicant or a recipient has filed a notice requesting a hearing under subsection 1, the provisions of sections 11a, 11b, 11c and 11e of The Family Benefits Act, 1966 apply mutatis mutandis to a hearing and review by the board of review under this Act and appeals therefrom.



Section 45. Principles are stated to govern the decision of the Lieutenant Governor in Council in giving approval of a corporation to operate a charitable institution and of buildings for the institution. Grounds for suspension or revocation of an approval are set out. A procedure requiring that an inquiry be held before suspension or revocation is proposed.

7f. A municipal welfare administrator or a regional Recovery where welfare administrator may recover from a recipient recipient not any sum paid to him by way of assistance to which assistance he was not entitled under this Act or in excess of any amount to which he was so entitled whether by reason of non-disclosure of facts, misrepresentation or fraud or for any other cause disentitling him to such assistance by reducing or suspending any assistance payable to the recipient or by proceedings to recover such sum as a debt due to the municipality or to the Crown, as the case may be, in any court of competent jurisdiction.

- **45.**—(1) Section 2, and section 3 as amended by section $2_{ss,2,3}^{1966, c.65}$, of The Homes for Retarded Persons Amendment Act, 1968, re-enacted of The Homes for Retarded Persons Act, 1966, are repealed and the following substituted therefor:
 - 2. Where the Lieutenant Governor in Council is Approval of corporations satisfied that any corporation is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a home for retarded persons and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act.
 - 3.—(1) Where the Lieutenant Governor in Council is Approval of satisfied that a building is suitable for providing accommodation as a home for retarded persons in accordance with this Act and the regulations, he may approve such building as a home for retarded persons for the maintenance and operation of which assistance may be given under this Act.
 - (2) An approval given under subsection 1 may take Effective effect on any date fixed by the Lieutenant Governor approval in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the home for retarded persons.
- (2) Section 11 of The Homes for Retarded Persons Act, 1966, c. 65, 1966 is repealed and the following substituted therefor:
 - 11.—(1) Subject to this section, any approval given under Suspension this Act may be suspended by the Minister or revoked tion of by the Lieutenant Governor in Council on the recommendation of the Minister if.

- (a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provisions; or
- (b) the approval would be refused if application were being made for it in the first instance.

Hearing

(2) Subject to subsection 6 and except where an approval is suspended or revoked with the consent of the approved corporation, before suspending, or before recommending to the Lieutenant Governor in Council revocation, of an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Department of Social and Family Services, appointed by the Minister.

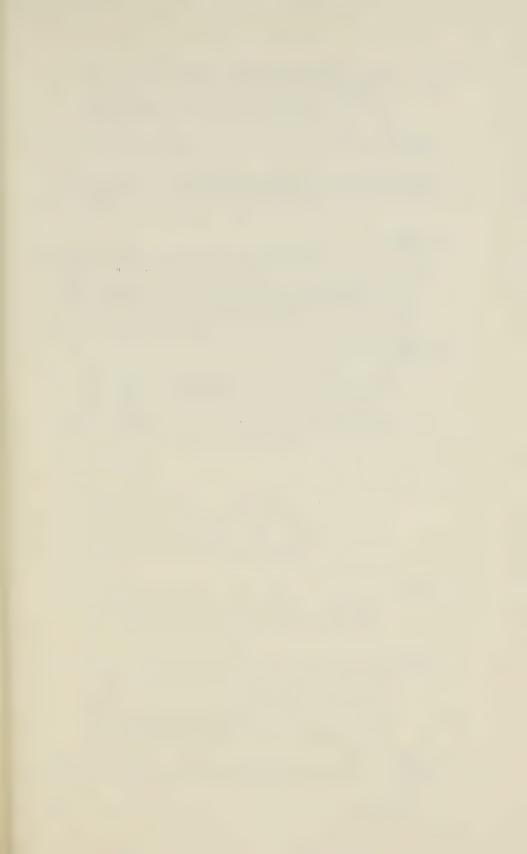
Application of 1971, c. . . .

(3) Sections 4 to 16 and 21 to 24 of *The Statutory Powers Procedure Act*, 1971 apply with respect to a hearing under this section.

Report to Minister (4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected.

Decision of Minister (5) After considering a report made to him under this section, the Minister may thereupon suspend or recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension of approval (6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the



Section 46. The powers of a provincial judge to commit any person over the age of sixty years to a home is repealed.

SECTION 47.

- 1. Under the present Act, the Minister decides all matters of doubt or dispute under the Act with an appeal from his decision to the Lieutenant Governor in Council. The amendments provide for such disputes to be decided in the first instance by the Superintendent of Agricultural Societies after a hearing, with an appeal to the Minister. The Superintendent or the Minister may state a case, or may be required to state a case, on any question of law to the Divisional Court. The procedure provided in The Statutory Powers Procedure Act, 1971 will apply to the hearing before the Superintendent.
- 2. Powers of investigation and inquiry are amended to confer the powers of a commission under Part II of *The Public Inquiries Act, 1971*.
- 3. A person from whom a premium or prize at an exhibition is withheld on grounds of fraud or misrepresentation is given an appeal to a judge of the county or district court.

public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

- (3) Clause m of section 12 of The Homes for Retarded $^{1966, c. 65}_{s. 12, cl. m, repealed}$.
- **46.** Section 14 of *The Homes for the Aged and Rest Homes* R.S.O. 1960, Act as amended by section 9 of *The Homes for the Aged* repealed and Rest Homes Amendment Act, 1968, is repealed.
- **47.**—(1) Section 2 of *The Horticultural Societies Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 2.—(1) Where any dispute arises as to the operation Disputes or construction of this Act, the Superintendent shall, after a hearing, decide such dispute.
 - (2) A party to a dispute under this section may appeal Appeal from from a decision of the Superintendent to the Superintendent Minister within fifteen days after receipt of the decision of the Superintendent and the Minister may, after considering the record of the proceedings before the Superintendent and affording to the parties an opportunity for an argument on the appeal, affirm, vary or annul the decision of the Superintendent.
 - (3) The Superintendent or the Minister, as the case Stated case may be, may of his own motion, or upon the request of any party to a dispute or an appeal, state a case in writing to the Supreme Court setting forth any question of law that arises at the hearing or on the appeal and the facts material thereto.
 - (4) If the Superintendent or the Minister, as the case Refusal to state case may be, refuses to state a case under this section, the party requesting it may apply to the Supreme Court for an order directing him to state such a case.
 - (5) Where a case is stated under this section, the Decision Supreme Court shall hear and determine the question raised in a summary manner and shall certify its decision to the Superintendent or the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the dispute in accordance therewith.
- (2) Sections 21 and 22 of *The Horticultural Societies Act* c. 175, ss. 21, 22, re-enacted

Inspection and inquiry

21.—(1) The Minister may appoint a person to inspect the books and accounts of any society receiving legislative grants under this Act or to inquire into the affairs of such society, and every officer of the society shall, when required by such person, make available the books and accounts thereof for the purpose of such inspection or inquiry.

Powers on inquiry

1971, c. . . .

(2) A person appointed under subsection 1 has, for the purposes of an inspection or inquiry thereunder, the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inspection or inquiry as if it were an inquiry under that Act.

Fraud in obtaining prizes

22.—(1) Where the board of a society has reason to believe that any member or other person exhibiting a product at an exhibition at which prizes are offered by the society has committed a fraud or made any misrepresentation in respect of the product, the board may withhold payment or delivery of any prize money or other prize award to the member or person and the board shall, forthwith, furnish to him a written statement of its reasons for so doing.

Appeal

(2) A member or other person from whom prize money or a prize award has been withheld by the board of a society under subsection 1 may appeal to a judge of the county or district court of the county or district in which the head office of the society is situate by filing a notice of appeal in the office of the clerk of the court and leaving a copy of the notice of appeal at the head office of the board within fifteen days after receipt of the statement of the reasons of the board furnished under subsection 1.

Parties

(3) The appellant and the board from whose decision the appeal is taken are parties to an appeal under this section.

Hearing de novo

(4) An appeal to a judge under this section shall be held by way of a hearing *de novo*.

Decision of judge

(5) On an appeal under this section, the judge may affirm, vary or annul the decision of the board and may order the board to pay or deliver any prize money or prize award withheld by it under this section.



Section 48. Reference to The Public Inquiries Act is amended to refer to Part II of The Public Inquiries Act, 1971.

SECTION 49.

- 1. General power to take up or use property is limited to doing so for purposes of safety.
- 2. Powers of examination and investigation are amended by conferring the powers of a commission under Part II of *The Public Inquiries Act, 1971*.
- 3. Any direction or decision by an inspector may be appealed to the chief inspector.
- 4. Provision is made that subsection 5 of section 13, which protects inspectors from personal liability, will not relieve the Crown of any liability that it would otherwise bear.
- 5. An appeal is provided to a judge from decisions of a chief inspector suspending or revoking any approval, permit or registration for contravention of the Act or the regulations.

48. Sections 1 and 2 of The Hospital and Charitable Institu-R.S.O. 1960, c. 177, s. 1, tions Inquiries Act are repealed and the following substituted re-enacted; s. 2, repealed therefor:

- 1. Whenever the Lieutenant Governor in Council con-Inquiry siders it expedient to cause inquiry to be made concerning any matter connected with or affecting a hospital, sanatorium, charitable institution or other organization that is granted aid out of moneys appropriated by the Legislature, he may, by commission, appoint one or more persons to conduct such inquiry, and every person so appointed has for that purpose the powers of a commission under Part II of The Public Inquiries Act, 1971, which 1971, c. ... Part applies to such inquiry as if it were an inquiry under that Act.
- **49.**—(1) Clause a of subsection 1 of section 8 of The 1964, c. 45, s. 8, subs. 1, Industrial Safety Act, 1964 is repealed and the following cl. a, re-enacted substituted therefor:
 - (a) subject to subsection 3, enter in or upon any premises at any time without warrant;
 - (aa) take up or use at any time any property, real or personal, for purposes necessary or advisable to preserve or promote the safety of any person in any industrial establishment.
- (2) Clause e of subsection 1 of the said section 8 is repealed $\begin{array}{l} 1964, \text{ c. } 45, \\ \text{s. } 8, \text{ subs. } 1, \\ \text{d} \end{array}$ the following substituted therefor: and the following substituted therefor:
 - (e) subject to subsection 5, examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, any person whom he finds in an industrial establishment or whom he has reasonable cause to believe to be or to have been within the two preceding months employed in an industrial establishment and, for such purpose, the inspector has the powers of a commission under Part II of The Public Inquiries Act, 1971, which 1971, c. ... Part applies to the examination as if it were an inquiry under that Act;

(3) Subsection 4 of the said section 8 is repealed and the 1964, c. 45, s. 8, subs. 4, re-enacted following substituted therefor:

Powers of investigation

1971, c. ...

(4) For the purpose of an investigation, inquiry or examination made by him under this Act, the chief inspector has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation, inquiry or examination as if it were an inquiry under that Act.

Counsel or agent

(5) A person who is examined by an inspector under clause *e* of subsection 1 is entitled to have a counsel or agent present at the examination to advise him.

1964, c. 45, s. 10, subss. 3-5, repealed (4) Subsections 3, 4 and 5 of section 10 of *The Industrial Safety Act*, 1964 are repealed.

1964, c. 45, amended (5) The Industrial Safety Act, 1964 is amended by adding thereto the following section:

Appeal from decisions of inspector

12a.—(1) Any person who considers himself aggrieved by any direction given or decision made by an inspector under this Act or the regulations may appeal to the chief inspector who shall hear and dispose of the appeal as promptly as is practicable, but the bringing of such appeal does not affect the operation of the decision appealed from pending disposition of the appeal.

How appeal

(2) An appeal to the chief inspector may be made in writing or orally or by telephone, but the chief inspector may require the grounds for appeal to be specified in writing before the appeal.

Parties

(3) The appellant, the inspector from whom the appeal is taken and such other persons as the chief inspector may specify are parties to an appeal under this section.

Powers of chief inspector (4) On an appeal under this section, the chief inspector may substitute his findings or opinions for those of the inspector who made the decision appealed from and may rescind or affirm the decision or make a new decision in substitution therefor and for such purpose has all the powers of an inspector and the decision of the chief inspector shall stand in the place of and have the like effect under this Act and the regulations as the decision of the inspector.

- (5) In this section, a decision of an inspector under Decision of this Act or the regulations includes any decision, includes directions, directions, order, direction, finding, approval or permission made etc. or given or the imposition of any terms or conditions therein by an inspector under the authority of this Act or the regulations or the refusal thereof by an inspector.
- (6) A decision of the chief inspector under this section Decision of the chief inspector
- (6) Subsection 1 of section 13 of *The Industrial Safety Act*, 1964, c. 45, 8, 13, subs. 1, repealed. 1964 is repealed.
- (7) The said section 13 is amended by adding thereto the 1964, c. 45, amended following subsection:
 - (6) Subsection 5 does not, by reason of subsections 2 Crown not relieved of and 4 of section 5 of The Proceedings Against the liability Crown Act, 1962-63, relieve the Crown of liability in 1962-63, c. 109 respect of a tort committed by an inspector to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 5 had not been enacted.
- (8) Section 18 of The Industrial Safety Act, 1964 is repealed 1964, c. 45, and the following substituted therefor:
 - 18.—(1) The chief inspector may suspend or revoke any Suspension approval, permit or registration granted under this of approvals, Act or the regulations, after hearing the person to registration whom it was granted, if such person contravenes or knowingly permits any person under his control or direction to contravene any provision of this Act or the regulations relating to the matter so approved or permitted or with respect to which such registration was granted or any term or condition of such approval, permit or registration imposed under this Act or the regulations.

(2) Notice of a hearing under this section shall afford to Notice of the person affected a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for retention of the approval. permit or registration to which the hearing relates.

(3) A person who will be affected by a suspension or Examination revocation under this section shall be afforded an mentary opportunity to examine before the hearing any evidence written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Appeal from decision of inspector

18a—(1) Any person who considers himself aggrieved by a decision of the chief inspector under section 18 may, within fifteen days after receipt of the decision of the chief inspector, appeal to the judge of the county or district court of the county or district in which the industrial establishment to which the approval, permit or registration relates or in which the person aggrieved resides, by applying to the judge for a hearing.

Extension of time for hearing (2) A judge to whom an application is made under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Hearing de novo

(3) Where a person appeals under this section to a judge, the judge shall appoint a time for and hear the appeal by way of a hearing *de novo* and the judge may affirm or reverse the decision of the chief inspector or make a new decision in substitution therefor and for such purpose has all the powers of the chief inspector to make such decision as he considers proper.

Parties

(4) The appellant, the chief inspector and such other persons as the judge may specify are parties to an appeal under this section.

Recording of evidence

(5) The oral evidence taken before the judge at a hearing shall be recorded, and if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings of fact (6) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. ...

(7) The bringing of an appeal under this section does not affect the suspension or revocation of any approval, permit or registration to which it relates pending the disposition of the appeal.

Effect of suspension pending disposal of appeal

50. Section 3 of *The Industrial Standards Act* is repealed and the following substituted therefor:

R.S.O. 1960, c. 186, s. 3, re-enacted

Section 50. Reference to The Public Inquiries Act is amended to refer to Part II of The Public Inquiries Act, 1971.

SECTION 51.

- 1. Throughout the Act powers are conferred on the Minister to make orders and decisions where he deems it to be in the public interest to do so. A provision is added to the Act defining the purposes of the Act and the powers of the Minister are amended to authorize him to exercise them for the defined purposes.
- 2. The power to fix penalties in the regulations is repealed and a general penalty is enacted in the Act.
- 3. The Act now provides that persons exercising powers under it are relieved of any personal liability. A provision is added that the Crown is not for this reason relieved of any liability which it would otherwise bear.
- 4. Provision is made that before the Minister exercises a power to direct persons to take action at their expense he shall cause an inquiry to be made. Persons affected are afforded an opportunity to take part in the inquiry. An appeal is provided from the decision of the Minister to the Lieutenant Governor in Council.
- 5. The Act now provides that where the Minister orders work to be undertaken if the person directed to do the work does not do so the Minister may cause it to be done. The Minister is empowered to certify the amount of the costs which are recoverable as a debt due to the Crown. The provision that the Minister may certify the costs is repealed and the amount of the costs will be a matter for proof in proceedings to recover them.
- 6. Powers now conferred on individuals to make orders in the nature of regulations are amended to provide that these powers can only be exercised with the approval of the Minister.
- 7. Powers of owners of water privileges to acquire additional land by obtaining a judge's order are repealed and a power of expropriation, which will be subject to *The Expropriations Act*, 1968-69, is substituted.

- 3. Every officer has such powers and duties as are Powers and prescribed by this Act and the regulations and has officers authority to conduct inquiries and investigations respecting all matters coming within the scope of such powers and duties and, for such purposes, has the powers of a commission under Part II of The 1971, c. ... Public Inquiries Act, 1971, which Part applies to such inquiries and investigations as if they were inquiries under that Act.
- **51.**—(1) The Lakes and Rivers Improvement Act is amended R.S.O. 1960, by adding thereto the following section:
 - 1a. The purpose of this Act is to provide for the use of Exercise of powers under waters of the lakes and rivers of Ontario and to Act regulate improvements in them, and to provide for:
 - (a) the preservation and equitable exercise of public rights in or over such waters;
 - (b) the protection of the interests of the riparian owners:
 - (c) the use, management and perpetuation of the fish, wildlife and other natural resources dependent on such waters;
 - (d) the preservation of the natural amenities of such waters and on the shores and banks thereof; and
 - (e) ensuring the suitability of the location and nature of improvements in such waters, including their efficient and safe maintenance and operation and having regard to matters referred to in clauses a, b, c and d, their operation in a reasonable manner.
- (2) Clause c of subsection 1 of section 2 of The Lakes and R.S.O. 1960, c. 203, s. 2, Rivers Improvement Act is repealed.
- (3) The said section 2 is amended by adding thereto the R.S.O. 1960, following subsection:
 - (3) Every person who contravenes any provision of this Penalty Act or the regulations, is guilty of an offence and on summary conviction is liable, where no other penalty is provided in this Act, to a fine of not more than \$5,000.

R.S.O. 1960, c. 203, s. 7a (1960-61, c. 43, s. 1), amended (4) Section 7a of The Lakes and Rivers Improvement Act, as enacted by section 1 of The Lakes and Rivers Improvement Amendment Act, 1960-61, is amended by adding thereto the following subsection:

Crown not relieved of liability 1962-63, c. 109 (2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, 1962-63, relieve the Crown of liability in respect of a tort committed by any agent or servant of the Crown to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

R.S.O. 1960, c. 203, amended (5) The Lakes and Rivers Improvement Act is amended by adding thereto the following sections:

Inquiry

7b.—(1) Subject to subsection 2, where under this Act the approval of the Minister is required for any matter, or where under this Act the Minister is empowered to make an order directing the construction, repair, improvement or removal of a dam in any lake or river or the doing of any other act or thing requiring the incurring of costs, the Minister shall, before refusing such an approval or making an order, give notice to the person seeking the approval or to the person to whom the proposed order will be directed of his intention to refuse the approval or to make the order, and if such person, within fifteen days of receipt of the notice, requests an inquiry, the Minister, before refusing the approval or making the order shall cause an inquiry to be made under section 7c.

Where order necessary without hearing (2) Where in the opinion of the Minister the making of an order referred to in subsection 1 is immediately necessary for the protection of persons from injury or property from damage or for the public safety and he so states in the order, the Minister may make such order without the holding of an inquiry.

Appointment of person to hold inquiry 7c.—(1) The Minister may appoint a person to hold an inquiry under section 7b and shall specify particulars of the inquiry and the person so appointed shall fix a time and place for the holding of the inquiry.

Notice of inquiry

(2) The Minister and the person seeking the approval referred to in section 7b or to whom the proposed order referred to therein may be directed are parties to the inquiry, but any person having a direct interest

in the subject-matter of the inquiry may notify the person holding the inquiry of his interest and become a party, and the person holding the inquiry may cause notice of the inquiry to be published or otherwise given in such manner as he considers reasonably adequate to inform all persons who may have direct interests in the subject-matter of the inquiry.

(3) At least five days before the date fixed for the Notice of grounds hearing, the Minister shall serve upon each other party to the inquiry a notice indicating the grounds upon which he intends to rely at the hearing and shall make available for inspection by the parties any documents, including maps and plans that the Minister proposes to use at the hearing.

- (4) The person holding an inquiry under this section Holding of shall hold a hearing as to whether the refusal of approval or the proposed order is fair, sound and reasonably necessary for the achievement of the purposes of this Act.
- (5) A person holding an inquiry under this section shall Report of inquiry report to the Minister pursuant to the inquiry giving a summary of the evidence and arguments advanced by the parties, his findings of fact and his opinion on the merits of the granting of approval or of the proposed order with his reasons therefor, and shall furnish a copy of his report to the other parties.
- (6) Sections 6 to 16 and 21 to 23 of The Statutory Application of 1971, c. . . Powers Procedure Act, 1971 apply with respect to a hearing under this section.
- (7) The Minister shall consider a report made to him Decision of Minister under this section and may grant or refuse the requested approval or refrain from making or make the proposed order, with or without such modifications as he considers proper having regard to the report, and the Minister shall give reasons for his decision to the parties.
- 7d. Upon the petition of a person who has been refused Appeal approval by the Minister of any matter or to whom an order is directed by the Minister after an inquiry under section 7c filed with the Clerk of the Executive Council within twenty-eight days after the date of the refusal or order, the Lieutenant Governor in Council may,

- (a) confirm, vary or rescind the refusal or order; or
- (b) require the Minister to cause a new inquiry to be held,

and the decision of the Minister after the new inquiry is not subject to petition under this section.

R.S.O. 1960, c. 203, s. 9 (1962-63, c. 71, s. 1), subs. 3, re-enacted (6) Subsection 3 of section 9 of The Lakes and Rivers Improvement Act, as re-enacted by section 1 of The Lakes and Rivers Improvement Amendment Act, 1962-63, is repealed and the following substituted therefor:

Refusal of approval where contrary to purposes of Act (3) The Minister may refuse to give his approval under this section to the location of a dam where it appears to him that the construction of a dam at that location would be contrary to any of the purposes of this Act.

R.S.O. 1960, c. 203, s. 9 (1962-63, c. 71, s. 1), subs. 5, re-enacted

71, fo

(7) Subsection 5 of the said section 9 is repealed and the following substituted therefor:

Approval of plans

(5) The Minister may approve the plan and specifications of a dam as submitted to him or may approve them with such alterations as he considers advisable having regard to the purposes of this Act, and without limiting the generality of the foregoing, may require that the dam shall be provided with a fishway that will permit the free and unobstructed passage of fish.

R.S.O. 1960, c. 203, s. 9*a* (1962-63, c. 71, s. 1), subs. 2, re-enacted (8) Subsection 2 of section 9a of The Lakes and Rivers Improvement Act, as enacted by section 1 of The Lakes and Rivers Improvement Amendment Act, 1962-63, is repealed and the following substituted therefor:

Order for repair, etc., of dam (2) The Minister may, where he considers it necessary for any of the purposes of this Act, order the owner of a dam to which subsection 1 applies to repair, reconstruct or remove the dam within the time specified in the order and, upon non-compliance with the order within the time limited, the Minister may repair, reconstruct or remove the dam to the extent that he considers it necessary to comply with the purposes of this Act, and the cost of any such work shall be a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction.

R.S.O. 1960, c. 203, s. 10, re-enacted (9) Section 10 of *The Lakes and Rivers Improvement Act* is repealed and the following substituted therefor:

- 10. Where a dam has heretofore been or is hereafter Approval constructed in a lake or river and it is proposed to make improvements to the dam, the improvements shall not be proceeded with until complete copies of the plans and specifications have been approved by the Minister as being in accordance with the purposes of this Act.
- (10) Subsection 2 of section 11 of *The Lakes and Rivers* R.S.O. 1960, *Improvement Act* is repealed and the following substituted subs. 2, re-enacted therefor:
 - (2) Upon failure on the part of the owner to furnish Failure to plans and other particulars required under subsection plans 1 within the time specified, the Minister may require the engineer to make an examination and report on the dam, and the expenses incurred in making the examination and report shall be a debt due by the owner to the Crown, and the amount thereof is recoverable with costs in any court of competent jurisdiction.
- (11) Subsection 5 of the said section 11 is repealed and the R.S.O. 1960, c. 203, s. 11, subs. 5, re-enacted
 - (5) Upon non-compliance with the order within the Effect of time limited or in case the Minister considers that compliance the repairs, improvements, opening up or removal ordered is immediately required in an emergency, the Minister may repair, improve, open up or remove the dam in so far as he considers it necessary to ensure the safety of the public or of persons whose lands or property may be endangered by the dam, and the cost of any such work is a debt due by the owner to the Crown, and the amount thereof is recoverable with costs in any court of competent jurisdiction.
- (12) Subsection 2 of section 12 of *The Lakes and Rivers* R.S.O. 1960, *Improvement Act* is repealed and the following substituted $\frac{\text{Subs. } 2}{\text{subs. } 2}$ therefor:
 - (2) Where the owner of a dam fails to comply with an Non-compliance order made under subsection 1 within the time with order specified in the order, the Minister may cause to be done whatever work is necessary to comply with the order, and the cost thereof is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction.

R.S.O. 1960, c. 203, s. 13, subss. 2, 3, re-enacted; subs. 4, repealed (13) Subsections 2, 3 and 4 of section 13 of *The Lakes and Rivers Improvement Act* are repealed and the following substituted therefor:

Repair or reconstruction

(2) If the Minister considers it necessary or expedient for the purposes of this Act, he may, after the receipt of the report of the engineer, order the owner of the dam or other structure or work to repair, reconstruct or remove it to the extent necessary to comply with such purposes within the time specified in the order.

Noncompliance with order (3) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may expropriate the site of the dam or other structure or work and all rights or interests incidental thereto on behalf of the Crown, and The Expropriations Act, 1968-69 applies to such expropriation.

1968-69, c. 36

- R.S.O. 1960, c. 203, s. 14, subs. 1, cl. b, re-enacted; cl. c, repealed
- (14) Clauses b and c of subsection 1 of section 14 of *The Lakes and Rivers Improvement Act* are repealed and the following substituted therefor:
 - (b) hinders or obstructs the engineer or an officer, servant or agent employed by or under the direction of the Minister in the performance of his duties under this Part, or refuses or neglects to provide any plans, accounts, documents or report relating to the construction of a dam when required by such engineer, officer, servant or agent.

R.S.O. 1960, c. 203, s. 16, re-enacted (15) Section 16 of *The Lakes and Rivers Improvement Act* is repealed and the following substituted therefor:

Disputes as to user 16.—(1) Where the Minister considers it expedient for the purposes of this Act or where a conflict or dispute arises between persons having a right to use a lake or river or any works or other improvements thereon for floating timber or between such persons and any other persons having the right to use a lake or river for any other purpose, the Minister may appoint an officer or officers to be in charge of the lake or river or any works or improvements thereon and the Minister may, on the recommendation of such officer or officers make orders to regulate the use of the lake or river or any works or improvements thereon in such manner as seems best calculated to afford to persons having diverse interests on the lake or river or in the works or

improvements a fair and reasonable use of the waters of the lake or river, but where any alterations of the level of international boundary waters is involved, such orders shall conform to any order or recommendation that the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States.

- (2) Every person who contravenes any order made Penalty under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day that he contravenes the order.
- (16) Subsections 1 and 2 of section 17 of The Lakes and R.S.O. 1960, Rivers Improvement Act are repealed and the following subsubs. 1, 2, re-enacted stituted therefor:
 - (1) Where a dam or other structure or work has been Regulation heretofore or is hereafter constructed on a lake or levels river and the Minister considers it necessary or expedient for the purposes of this Act, he may order the owner of the dam or other structure or work to take such steps within the time specified in the order as may be necessary to maintain the level of the water of the lake or river or to raise or lower such level as the order provides.

(2) Where the owner fails to comply with an order made Non-compliance under this section within the time specified in the with order order, the Minister may cause to be taken such steps as are necessary to achieve the result intended by the order, and the cost thereof is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction.

- (17) Section 18 of *The Lakes and Rivers Improvement Act* is R.S.O. 1960, c. 203, s. 18, pealed and the following substituted therefor: repealed and the following substituted therefor:
 - 18. Subject to compensation being made as provided by Removal of obstructions The Public Works Act for any damage sustained by R.S.O. 1960, reason thereof, the Minister may authorize any c. 338 engineer, agent, workman or servant employed by or under him to enter into and upon any land and remove any rocks, stones, gravel, slab or timber jam, dam or part of any dam, rubbish of any kind or other obstruction in any lake or river, the removal of which he considers necessary or expedient for the achievement of any of the purposes of this Act.

R.S.O. 1960, c. 203, ss. 23, 24, repealed (18) Sections 23 and 24 of The Lakes and Rivers Improvement Act are repealed.

R.S.O. 1960, c. 203, s. 26, subs. 6 (1962-63, c. 71, s. 4), re-enacted (19) Subsection 6 of section 26 of The Lakes and Rivers Improvement Act, as enacted by section 4 of The Lakes and Rivers Improvement Amendment Act, 1962-63, is repealed and the following substituted therefor:

Removal of timber causing obstruction (6) Where the Minister considers it necessary or expedient for the purposes of this Act, he may order the owner of or the person who is responsible for driving any timber that has drifted out of control or that has caused an obstruction or hazard in a lake or river to recover and remove the timber within the time specified in the order and, in default thereof, the Minister may cause the timber to be recovered and removed, and the cost thereof is a debt due to the Crown by such owner or person and is recoverable with costs in any court of competent jurisdiction.

R.S.O. 1960, c. 203, s. 31, re-enacted (20) Section 31 of *The Lakes and Rivers Improvement Act* is repealed and the following substituted therefor:

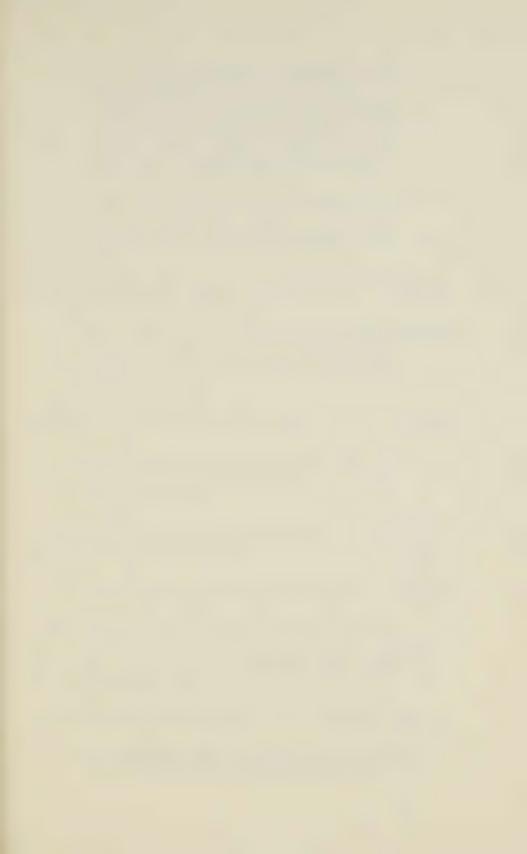
Throwing trees, etc., in lake prohibited 31.—(1) Where any tree, part of a tree, refuse, substance or matter has been thrown or deposited in a lake or river or on the shores or banks thereof in such a manner as, in the opinion of the Minister, impairs the natural beauty of the lake or river, the Minister may order the person who committed or caused the commission of such act to take such steps within the time specified in the order as are necessary to remove the tree, part of a tree, refuse, substance or matter from the lake or river or from the shores or banks thereof.

Penalty

(2) Every person who fails to comply with an order under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day that he does not comply with the order.

R.S.O. 1960, c. 203, s. 33, subs. 3, re-enacted (21) Subsection 3 of section 33 of *The Lakes and Rivers Improvement Act* is repealed and the following substituted therefor:

Order to cease depositing matter in lake, etc. (3) Where the Minister finds that any refuse, sawdust, chemical, substance or matter from a mill is being thrown, deposited or discharged into a lake or river or on the shores or banks thereof, the Minister may



SECTION 52.

- 1. Subject to certain specified grounds for refusal, a right to a licence under the Act is conferred.
 - 2. The grounds for refusal to issue or for revoking licences are specified.
- 3. The Fire Marshal is required to hold a hearing before suspending or revoking any licence.
- 4. An appeal lies from a decision of the Fire Marshal to the county or district court judge with a further appeal to the Divisional Court.

order the owner or occupier of the mill to cause such throwing, depositing or discharging to cease and may in addition order, where in his opinion it is practicable to do so, that such owner or occupier take such steps within the time specified in the order as may be necessary to remove the refuse, sawdust, chemical, substance or matter from the lake or river or from the shores or banks thereof.

(4) Every owner or occupier who fails to comply with an Penalty order under subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day that he does not comply with the order

- (22) Section 52 of The Lakes and Rivers Improvement Act is R.S.O. 1960, c. 203, s. 52, repealed and the following substituted therefor:
 - 52. The Minister may, with the approval of the Lieutenant Expropriation of works of Governor in Council, where the Lieutenant Governor company in Council considers it expedient for the purposes of this Act, expropriate the works of any company formed under this Part

- (23) Section 80 of *The Lakes and Rivers Improvement Act* is R.S.O. 1960, pealed and the following substituted therefor: repealed and the following substituted therefor:
 - 80. Any party to an arbitration under this Part may Appeal appeal from the award or directions in writing of the arbitrator to the Supreme Court in accordance with the rules of court.
- (24) Subsections 2 and 3 of section 87 and sections 88 to subss. 2, 3, 100 of The Lakes and Rivers Improvement Act are repealed; s. 88, re-enacted; ss. 88-100,

- 88. A person to whom section 87 applies may expropriate Expropriation of land land for the purposes mentioned in section 87.
- **52.**—(1) Subsection 1 of section 3 of *The Lightning Rods* R.S.O. 1960, c. 213, s. 3, Act is amended by striking out "if he is satisfied that the subs." applicant is entitled to public confidence, may" in the amended seventeenth and eighteenth lines and inserting in lieu thereof "shall, subject to subsection 3".
- (2) Section 3 of *The Lightning Rods Act* is amended by R.S.O. 1960, ding thereto the following subsection: adding thereto the following subsection:
 - (3) The Fire Marshal may, after hearing the applicant, Refusal to issue refuse to issue a licence under this section where,

- (a) the applicant is not competent to install lightning rods properly;
- (b) the lightning rods to be offered for sale, sold or installed under the licence are not of adequate quality or serviceability; or
- (c) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on operations authorized by the licence in accordance with law and with integrity and honesty.

R.S.O. 1960, c. 213, s. 4, subs. 1, amended

(3) Subsection 1 of section 4 of *The Lightning Rods Act* is amended by striking out "if he is satisfied that the person named is entitled to public confidence, may" in the twelfth and thirteenth lines and inserting in lieu thereof "shall, subject to subsection 3".

R.S.O. 1960, c. 213, s. 4, amended (4) The said section 4 is amended by adding thereto the following subsection:

Refusal to issue

- (3) The Fire Marshal may, after hearing the applicant, refuse to issue a licence under this section where,
 - (a) the applicant is not competent to install lightning rods properly; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on operations authorized by the licence in accordance with law and with integrity and honesty.

R.S.O. 1960, c. 213, amended (5) The Lightning Rods Act is amended by adding thereto the following section:

Continuation of licence pending issue of new licence

- 4a. Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, the holder of a licence under this Act has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) until the application has been finally determined by the Fire Marshal, or where renewal is refused, until fourteen days after mailing of the decision of the Fire Marshal, or where application is made for a hearing by a judge, such later time as the judge may fix.

- (6) Section 5 of *The Lightning Rods Act*, as amended by R.S.O. 1960, section 1 of *The Lightning Rods Amendment Act*, 1960-61, is re-enacted repealed and the following substituted therefor:
 - 5.—(1) The Fire Marshal may, after a hearing, suspend Suspension or or revoke a licence if the licensee has contravened of licence any provision of this Act or the regulations and his conduct affords reasonable grounds for belief that he will not comply with this Act and the regulations in the operations authorized by the license.
 - (2) The notice of a hearing required under subsection 1 Notice of shall afford to the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.
 - (3) An applicant or licensee shall be afforded an oppor-Examination tunity to examine before the hearing any written or documentary documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing.
- (7) Section 6 of *The Lightning Rods Act* is repealed and the $^{R.S.O.\ 1960}_{c.\ 213,\ s.\ 6,}$ following substituted therefor:
 - 6.—(1) Where an applicant or licensee, as the case Application may be, is dissatisfied with a decision of the Fire by country Marshal under section 3, 4 or 5, he may, within ten days after receipt of the notice of the decision, apply to the judge of the county or district court of the county or district in which he resides for a hearing by the judge.
 - (2) A judge to whom application is made for a Extension of hearing under subsection 1 may extend the time application for making the application, either before or after expiration of the time fixed in subsection 1, where he is satisfied that there are prima facie grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.
 - (3) The oral evidence taken before the judge at a Recording hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings of fact (4) The findings of fact of a judge pursuant to a hearing under this section shall be based exclusively on evidence admissible under the law of evidence or matters that may be judicially noticed.

Powers of judge (5) On an application under subsection 1, the judge may, after a hearing *de novo* to which the applicant, the Fire Marshal and such other persons as the judge may specify are parties, confirm, vary or reverse the decision of the Fire Marshal and may direct the Fire Marshal to do any act the Fire Marshal is authorized to do under this Act and as the judge considers proper.

Appeal to

6a.—(1) Any party to the proceedings before a judge under this Act may appeal from the decision or direction of the judge to the Supreme Court in accordance with the rules of court.

Record to be filed in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision was made or direction was given which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Fire Marshal entitled to be heard (3) The Fire Marshal is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court

(4) The Supreme Court may affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper, and may order the Fire Marshal to do any act or thing he is authorized to do under this Act and as the court considers proper or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

R.S.O. 1960, c. 213, s. 10, amended (8) Section 10 of *The Lightning Rods Act* is amended by adding thereto the following subsections:

Hearing

(3) Where a licensee is dissatisfied with the report of an inspector under subsection 1, he may, within ten days after receipt of the report, request the Fire Marshal to hold a hearing.



Section 53. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63* and are explained in the explanatory note to section 9 of this Bill.

- (4) Pursuant to a request under subsection 1, the Fire Parties Marshal shall hold a hearing to determine whether the inspector's report is proper and the inspector. licensee and such other persons as the Fire Marshal may specify are parties to the proceedings.
- (5) After a hearing under this section, the Fire Marshal Decision may confirm, vary or reverse the report of the Marshal inspector and may direct the inspector to do any act the inspector is authorized to do under this Act and as the Fire Marshal considers proper.
- **53.**—(1) Section 1 of The Live Stock and Live Stock R.S.O. 1960, c. 219, s. 1, Products Act is amended by relettering clause a as clause aa amended and by adding thereto the following clauses:
 - (a) "Board" means the Live Stock and Live Stock Products Licence Review Board established by this Act:
 - (da) "licence" means a licence required under the regulations.
- (2) The Live Stock and Live Stock Products Act is amended R.S.O. 1960, c. 219, adding thereto the following sections: by adding thereto the following sections:
 - 2a.—(1) Where a licence to deal in any live stock or Licence, live stock product is required under the regulations. the Commissioner shall issue a licence to a person who makes application therefor in accordance with the regulation and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the operations that would be authorized by the licence will not be carried on in accordance with law; or
- (b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the conditions under which the licence is issued.
- (2) Subject a licenc accorda prescril

Refusal to renew, suspension or cancellation

- 2b.—(1) The Commissioner may refuse to renew or may suspend or cancel a licence if, after a hearing he is of opinion that,
 - (a) the premises, facilities and equipment used in the operations authorized by the licence do not comply with the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the operations authorized by the licence to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the operations authorized by the licence or of the conditions under which the licence was issued and such contravention warrants such refusal to renew, suspension or cancellation of the licence; or
 - (c) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the Commissioner, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence wherein the Commissioner's opinion it is necessary to do so for the immediate protection of the safety or health of any person or the public and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee, and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

Notice of hearing 2c.—(1) Notice of a hearing by the Commissioner under section 2a or section 2b shall afford to the applicant

or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

- (2) An applicant or licensee who is a party to pro-Examination ceedings in which the Commissioner holds a hearing mentary shall be afforded an opportunity to examine before evidence the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 2d. Where the Commissioner has refused to issue or Variation of renew or has suspended or cancelled a licence pur-Commissioner suant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.
- 2e.—(1) A board to be known as the "Live Stock and Review Live Stock Products Licence Review Board" is established hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
- (2) A member of the Board shall hold office for not more Term of than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remuneramuneration and expenses as the Lieutenant Governor in Council may determine.
- 2f.—(1) Where the Commissioner refuses to issue or re-Appeal to new or suspends or cancels a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen

days after receipt of the decision of the Commissioner appeal to the Board.

Extension of time for appeal (2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board (3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

Effect of decision pending disposal of appeal (4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of.

Parties

2g.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Pro- 1971, c. ... cedure Act, 1971.
- (5) No member of the Board shall participate in a Only decision of the Board pursuant to a hearing unless at hearing to participate he was present throughout the hearing and heard in decision the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 2h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under this be heard section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and appeal the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.
- (5) Notwithstanding that an applicant or licensee has Effect of decision of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the deci-disposal sion of the Board is effective until the appeal is of appeal disposed of.
- (3) Subsection 1 of section 4 of *The Live Stock and Live* R.S.O. 1960, Stock Products Act is amended by adding at the commence-subs. 1, ment thereof "Subject to subsection 4".
- (4) The said section 4 is amended by adding thereto the R.S.O. 1960, c. 219, s. 4, amended

Power to enter dwelling R.S.O. 1960, c. 387 (4) Except under the authority of a warrant under section 14 of *The Summary Convictions Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant.

Appeal from decision of inspector

- (5) Where an inspector has,
 - (a) delayed the shipment of any live stock or live stock products under clause e of subsection 1;
 - (b) refused to inspect or mark or give a certificate under clause f of subsection 1; or
 - (c) seized or detained any live stock or live stock products under clause g of subsection 1,

he shall immediately notify the owner and the owner may appeal to the Commissioner from the decision of the inspector.

Decision of Commissioner (6) The Commissioner may, after hearing an appeal under this section, confirm or revoke the decision appealed from and may direct the inspector to do any act he is authorized to do under this Act and the regulations.

Parties

(7) The appellant, the inspector who made the decision and such other persons as the Commissioner may specify are parties to proceedings before the Commissioner under subsection 6.

How appeal made (8) An appeal under this section may be made in writing or orally or by telephone to the Commissioner, but the Commissioner may require the grounds for appeal to be specified in writing before the hearing.

R.S.O. 1960, c. 221, s. 1, amended

- **54.**—(1) Section 1 of The Live Stock Community Sales Act, as amended by section 1 of The Live Stock Community Sales Amendment Act, 1965 and section 1 of The Live Stock Community Sales Amendment Act, 1967, is further amended by adding thereto the following clause:
 - (a) "Board" means the Live Stock Community Sales Licence Review Board established by this Act.

R.S.O. 1960, c. 221, amended (2) The Live Stock Community Sales Act is amended by adding thereto the following sections:

Issue of licence

3a.—(1) The Director shall issue a licence to a person who makes application therefor in accordance with

Section 54. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63* and are explained in the explanatory note to section 9 of this Bill.



this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to engage in the business of operating community sales;
- (b) having regard to the applicant's financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the business of operating community sales;
- (c) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business of operating community sales pursuant to the licence will not be carried on in accordance with law and with honesty and integrity;
- (d) the applicant does not possess or will not have available all premises, facilities and equipment necessary to engage in the business of operating community sales in accordance with this Act and the regulations; or
- (e) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
- (2) Subject to section 3b, the Director shall renew a Renewal licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 3b.—(1) The Director may refuse to renew or may $\sup_{\substack{\text{to renew,} \\ \text{suspension} \\ \text{of opinion that,}}}^{\text{Refusal}}$
 - (a) the licensee is not or has not been financially responsible in the conduct of the business of operating community sales pursuant to the licence;
 - (b) the premises, facilities and equipment used in the business of operating community sales pursuant to the licence do not comply with this Act and the regulations;

- (c) there are reasonable grounds for belief that the business of operating community sales pursuant to the licence is not carried on in accordance with honesty and integrity;
- (d) the licensee or, where the licensee is a corporation, any officer, director or servant there-of has contravened or has permitted any person under his control or direction in connection with his business of operating community sales to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating community sales and such contravention warrants such refusal to renew, suspension or revocation of the licence; or
- (e) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Provisional suspension,

(2) Notwithstanding subsection 1, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or may suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or animal or of the interests of persons consigning animals for sale to the licensee and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act or the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing 3c.—(1) The notice of a hearing by the Director under section 3a or section 3b shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(2) An applicant or licensee who is a party to proceed-of docuings in which the Director holds a hearing shall be mentary evidence afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

3d. Where the Director has refused to issue or renew Variation of decision or has suspended or revoked a licence pursuant to a by Director hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

- 3e.—(1) A board to be known as the "Live Stock Com-Review Board munity Sales Licence Review Board" is hereby established established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2. hold office during pleasure.
- (2) A member of the Board shall hold office for not Term of office more than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remunera muneration and expenses as the Lieutenant Governor in Council may determine.
- 3f.—(1) Where the Director refuses to issue or renew Appeal to Board or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.
- (2) The Board may extend the time for the giving of Extension of time for notice by an applicant or licensee under subsection 1, appeal

- (c) there are reasonable grounds for belief that the business of operating community sales pursuant to the licence is not carried on in accordance with honesty and integrity;
- (d) the licensee or, where the licensee is a corporation, any officer, director or servant there-of has contravened or has permitted any person under his control or direction in connection with his business of operating community sales to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating community sales and such contravention warrants such refusal to renew, suspension or revocation of the licence; or
- (e) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or may suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or animal or of the interests of persons consigning animals for sale to the licensee and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act or the regulations.

Continuation of licence pending renewal

(3) Subject to subsection 2, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing 3c.—(1) The notice of a hearing by the Director under section 3a or section 3b shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(2) An applicant or licensee who is a party to proceed- Examination ings in which the Director holds a hearing shall be evidence afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

3d. Where the Director has refused to issue or renew Variation or has suspended or revoked a licence pursuant to a by Director hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

- 3e.—(1) A board to be known as the "Live Stock Com-Review munity Sales Licence Review Board" is hereby established established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
- (2) A member of the Board shall hold office for not Term of office more than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remunera muneration and expenses as the Lieutenant Governor in Council may determine.
- 3f.—(1) Where the Director refuses to issue or renew Appeal to or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board
- (2) The Board may extend the time for the giving of Extension of time for notice by an applicant or licensee under subsection 1, appeal

either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board (3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of decision pending disposal of appeal (4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

3g.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c...

- (5) No member of the Board shall participate in a Only members decision of the Board pursuant to a hearing unless at hearing to participate he was present throughout the hearing and heard the in decision evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 3h.—(1) Any party to the hearing before the Board may Appeal to appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under this be heard section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and the appeal court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.
- (5) Notwithstanding that an applicant or licensee has Effect of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the deci-disposal of sion of the Board is effective until the appeal is appeal disposed of.
- (3) Subsection 1 of section 11 of *The Live Stock Com*-R.S.O. 1960, munity Sales Act, as amended by subsection 1 of section 4 of subs. 1, The Live Stock Community Sales Amendment Act, 1965, is re-enacted repealed and the following substituted therefor:
 - (1) Subject to subsection 1a, the Director or an in-Powers of spector or a veterinarian may enter any premises for the purposes of enforcing this Act.
 - (1a) Except under the authority of a warrant under Dwellings section 14 of *The Summary Convictions Act*, the c. 387

 Director or an inspector or a veterinarian shall not enter any part of a dwelling without the consent of the occupant.

R.S.O. 1960, c. 221, s. 13, cl. c, repealed 1962-63, c. 76, s. 3 (1965, c. 64, s. 3), re-enacted

- (4) Clause c of section 13 of The Live Stock Community Sales Act is repealed.
- **55.**—(1) Section 3 of *The Loggers' Safety Act, 1962-63*, as re-enacted by section 3 of *The Loggers' Safety Amendment Act, 1965*, is repealed and the following substituted therefor:

Officers

3. There shall be an officer known as the chief officer and such other officers as are considered necessary for the administration of this Act and their duties shall be to ensure compliance with and to enforce the provisions of this Act and the regulations.

1962-63, c. 76, s. 4, re-enacted

- (2) Section 4 of *The Loggers' Safety Act, 1962-63* is repealed and the following substituted therefor:
 - 4. An officer may enter any land, building or other premises used for or in connection with logging at any reasonable hour for the purpose of carrying out his duties under this Act.

1962-63, c. 76, s. 6, re-enacted

(3) Section 6 of *The Loggers' Safety Act, 1962-63*, is repealed and the following substituted therefor:

Stop-work orders

- 6.—(1) Where an officer is of opinion that any provision of this Act or the regulations relating to safety in logging or in work in connection with logging is being contravened, he may give to the person so contravening or to his supervisor or foreman or to the operator or any of them such order in writing as is necessary to ensure compliance with such provision, and such order shall specify that it shall be carried out forthwith or before the expiry of such period as is specified therein, and,
 - (a) where the order specifies that it be carried out forthwith, all work or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with; or
 - (b) where the order specifies the period within which it is to be carried out and it is not carried out within that period, all work or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with.

Appeal

(2) Every person to whom an order of an officer under this section is directed, the operator employing such person or any person acting on behalf of the operator who is dissatisfied with the order may appeal to the district forester for the forestry district in which the

SECTION 55.

- 1. The powers of officers to enter on land are limited to entry in the performance of their duties.
- $2.\ \mbox{Where an officer}$ issues a stop-work order an appeal is provided to the district forester.

Section 56. A person whose marriage has been dissolved or annulled by a divorce or annulment recognized under the law of Ontario is given a right to a marriage licence and to apply under *The Judicial Review Procedure Act, 1971* to the Divisional Court for an order that a licence be issued to him.

logging or work to which the order relates is carried on who shall hear the appeal and may by order, affirm, vary or rescind the order of the officer.

- (3) The appellant from an order made under this section Parties and the officer making the order are parties to an appeal under this section.
- (4) An appeal under this section may be made in writ-How appeal ing or orally or by telephone to the district forester, but the district forester may require the grounds for appeal to be specified in writing before the hearing.
- (5) An order made by an officer under this section is Order binding and effective, notwithstanding that an appeal has been brought, until varied or rescinded by the district forester.
- (6) Every person to whom an order of an officer or Penalty district forester is directed under this section,
 - (a) who contravenes or who knowingly permits any person under his direction and control to contravene such order; or
 - (b) who carries on work or who knowingly permits any person under his direction or control to carry on work in contravention of subsection 1,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 a day for every day upon which the contravention continued.

- **56.**—(1) Section 12 of *The Marriage Act*, as amended by R.S.O. 1960, section 1 of *The Marriage Amendment Act*, 1964, is repealed re-enacted and the following substituted therefor:
 - 12.—(1) An applicant for a licence who has been where dissolution of previously married is entitled to be issued a licence if former such marriage has been dissolved or annulled and recognized such dissolution or annulment is recognized under the law of Ontario and the applicant otherwise complies with the requirements of this Act.
 - (2) Subject to subsection 6, no issuer shall issue a licence Material to be filed with to a person whose previous marriage has been dis-issuer where solved or annulled in Canada unless such person in Canada deposits with the issuer,

- (a) the final decree or judgment dissolving or annulling the marriage or a copy of the final decree or judgment or Act dissolving or annulling the marriage, certified by the proper officer; and
- (b) such other material as the issuer may require.

Where dissolution, etc., outside Canada

(3) Subject to subsection 6, no issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Provincial Secretary is obtained upon the deposit of such material as he may require.

Review of repeal to issue licence (4) Where an application for a licence by a person claiming to be entitled to be issued a licence under subsection 1 is refused by an issuer, or the Provincial Secretary refuses to issue an authorization under subsection 3, such person may make an application for judicial review under *The Judicial Review Procedure Act*, 1971 to the Supreme Court for an order directing that a licence be issued to him and if the court finds that he is so entitled it may make such an order.

1971, c. . . .

Parties (5) The applicant, the Provincial Secretary and such other persons as the court may order are parties to an application under subsection 4.

Issue of licence under court order (6) Where an applicant for a licence files with an issuer, together with his application, an order of the Supreme Court made on an application under subsection 4 directing that a licence be issued to him, the issuer shall issue the licence.

R.S.O. 1960, c. 228, s. 36, subs. 2, par. 6, re-enacted

- (2) Paragraph 6 of subsection 2 of section 36 of *The Marriage Act*, as amended by section 2 of *The Marriage Amendment Act*, 1964, is repealed and the following substituted therefor:
 - 6. Any documentary or other material filed on the application for a licence under section 12.

1962-63, c. 78, s. 1, amended

- **57.**—(1) Section 1 of *The Meat Inspection Act (Ontario)*, 1962-63 is amended by adding thereto the following clauses:
 - (aa) "Board" means the Meat Inspection Licence Review Board established by this Act;

Section 57. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63*, and are explained in the explanatory note to section 9 of this Bill.



- (da) "licence" means a licence under this Act;
- (2) Subsection 2, as amended by subsection 2 of section 3 of ¹⁹⁶²⁻⁶³, The Meat Inspection Amendment Act (Ontario), 1965, and ^{subss. 2, 3}, subsection 3, as amended by subsection 3 of section 3 of The Meat Inspection Amendment Act (Ontario), 1965, of section 3 of The Meat Inspection Act (Ontario), 1962-63 are repealed.
- (3) The Meat Inspection Act (Ontario), 1962-63 is amended 1962-63, by adding thereto the following sections:
 - 3a.—(1) The Director shall issue a licence to a person Licence, who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business of operating a plant pursuant to the licence will not be carried on in accordance with law:
 - (b) the applicant does not possess or will not have available all premises, facilities and equipment necessary to engage in the business of operating a plant in accordance with this Act and the regulations; or
 - (c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
 - (2) Subject to section 3b, the Director shall renew a Renewal licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - 3b.—(1) The Director may refuse to renew or may sus-Refusal to pend or revoke a licence if, after a hearing, he is suspension of opinion that,
 - (a) the premises, facilities and equipment used in the business of operating a plant pursuant to the licence do not comply with this Act and the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any

person under his control or direction in connection with his business of operating a plant, to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder, or of any law applying to the carrying on of the business of operating a plant or the conditions for licensing and such contravention warrants such refusal to renew, suspension or revocation of the licence; or

(c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or animal or the public and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee, and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing 3c.—(1) The notice of a hearing by the Director under section 3a or section 3b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

- 3d. Where the Director has refused to issue or renew or Variation of has suspended or revoked a licence pursuant to a by Director hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interest of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.
- 3e.—(1) A board to be known as the "Meat Inspection Review Licence Review Board" is hereby established and established shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
- (2) A member of the Board shall hold office for not Term of more than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remuneramuneration and expenses as the Lieutenant Governor in Council may determine.
- 3f.—(1) Where the Director refuses to issue or renew or Appeal to suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.
- (2) The Board may extend the time for the giving of Extension notice by an applicant or licensee under subsection 1, for appeal either before or after expiration of such time, where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.
- (3) Where an applicant or licensee appeals to the Powers of Board under this section, the Board shall hear

the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of decision pending disposal of appeal (4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

3g.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Only members at hearing to participate in decision



Section 58. The powers of the Deputy Minister in relation to an inquiry into the affairs of an institution are defined by reference to *The Public Inquiries Act*, 1971.

- 3h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel Minister or otherwise, upon the argument of an appeal under be heard this section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and appeal the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Director or the Board.
- (5) Notwithstanding that an applicant or licensee has Effect of decision of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the decision disposal of the Board is effective until the appeal is disposed of.
- (3) Subsection 3 of section 4 of The Meat Inspection Act 1962-63, (Ontario), 1962-63, as amended by section 4 of The Meat subs. 3, amended by adding at the commencement thereof "Subject to subsection 4".
- (4) The said section 4 is amended by adding thereto the 1962-63, c. 78, s. 4, amended
 - (4) Except under the authority of a warrant under Power section 14 of *The Summary Convictions Act*, the dwelling Director or an inspector shall not enter any part of R.S.O. 1960, a dwelling without the consent of the occupant.
- **58.** Subsection 1 of section 18 of *The Mental Hospitals* R.S.O. 1960, Act, as re-enacted by section 10 of *The Mental Hospitals* subs. 1 Amendment Act, 1967, is repealed and the following sub-s. 10, re-enacted stituted therefor:

Inquiry by Deputy Minister

(1) Where the Deputy Minister is authorized by the Minister to institute an inquiry into the management or affairs of an institution, or into any matter in connection therewith, or into the truth of any returns made by any officer thereof, the Deputy Minister has the powers of a commissioner under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inquiry as if it were an inquiry under that Act.

1971, c. . . .

R.S.O. 1960, c. 241, s. 16, subs. 1, repealed **59.**—(1) Subsection 1 of section 16 of *The Mining Act*, as amended by subsection 1 of section 5 of *The Mining Amendment Act*, 1962-63, is repealed.

R.S.O. 1960, c. 241, s. 33, subss. 1, 2, re-enacted

(2) Subsections 1 and 2 of section 33 of *The Mining Act* are repealed and the following substituted therefor:

Revocation of licence

(1) Where the Commissioner finds, after a hearing, that a licensee has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Commissioner, revoke the licensee of the licensee and a licence shall not thereafter be issued to such licensee without the authority of the Minister.

Suspension of licence

(2) Where a recorder finds, after a hearing, that a licensee has contravened any of the provisions of this Act or the regulations, the Minister may, upon the recommendation of the recorder, suspend the license of the licensee.

R.S.O. 1960, c. 241, s. 33, amended

(3) The said section 33, as amended by section 2 of *The Mining Amendment Act*, 1967, is further amended by adding thereto the following subsection:

Appeal

(4) A finding by the Commissioner that a licensee has wilfully contravened this Act or the regulations or by a recorder that a licensee has contravened this Act or the regulations, as the case may be, may be appealed in a like manner as any decision of the Commissioner or recorder, respectively, and the Minister shall give effect to the decision on the appeal.

R.S.O. 1960, c. 241, s. 96, subs. 3, amended

(4) Subsection 3 of section 96 of *The Mining Act* is amended by striking out "140" in the fourth line and inserting in lieu thereof "136".

R.S.O. 1960, c. 241, s. 98, subs. 1, re-enacted

(5) Subsection 1 of section 98 of *The Mining Act* is repealed and the following substituted therefor:

SECTION 59.

- 1. An appeal is provided from findings of the Mining Commissioner or a recorder that a person has contravened the Act as a result of which finding a licence may be suspended or revoked.
- 2. The Commissioner is required to hold a hearing in determining the rights of a holder of surface rights to compensation. Appeals lie to the Divisional Court instead of the Court of Appeal.
- 3. The grounds for refusal to renew, suspension or revocation of a quarry permit to operate a quarry on Crown lands are specified. Before refusing to renew or suspending or revoking a permit, the Minister is required to cause an inquiry to be held if it is requested by the permittee. In emergency cases the Minister may provisionally suspend a permit with the inquiry to be held thereafter.
- 4. Proceedings before a recorder are excepted from *The Statutory Powers Procedure Act*, 1971.
- 5. The procedure governing appeals from recorders to the Commissioner or proceedings by the Commissioner in the exercise of his original jurisdiction are integrated with the provisions of *The Statutory Powers Procedure Act*, 1971
- 6. Appeals from decisions of the Commissioner lie to the Divisional Court instead of the Court of Appeal.
- 7. Time limits are fixed for the bringing of applications for judicial review under *The Judicial Review Procedure Act, 1971*.
- 8. Before refusing to renew, suspending, cancelling or revoking a refinery licence, the Minister is required to cause an inquiry to be held.
- $9. \ \,$ Provision is made for hearings by the Commissioner of disputes between co-owners.
- 10. A person contesting his liability to acreage tax is given a right to appeal to the Commissioner to determine the matter.



- (1) Where the surface rights of land have been granted, Right of owner of sold, leased or located with reservation of mines, surface rights to minerals or mining rights to the Crown, or where compensation land is occupied by a person who has made improvements thereon that in the opinion of the Minister entitles him to compensation, a licensee who prospects for mineral or stakes out a mining claim or an area of land for a boring permit or carries on mining operations upon such land shall compensate the owner, lessee, locatee or occupant for all injury or damage that is or may be caused to the surface rights by such prospecting, staking out or operations, and in default of agreement the amount and the manner and time of payment of compensation shall be determined by the Commissioner after a hearing, and, subject to appeal to the Supreme Court where the amount awarded exceeds \$1,000, his order is final.
- (6) Subsection 7 of section 118 of The Mining Act is R.S.O. 1960, repealed. a section 118 of The Mining Act is R.S.O. 1960, repealed.
- (7) Part VII of *The Mining Act*, as amended by section 9 of $^{R.S.O.\,1960}_{c.\,241}$, *The Mining Amendment Act*, 1968, is further amended by $^{Part\,VII}_{(ss.\,118-124)}$, adding thereto the following section:
 - 118a.—(1) The Minister may refuse to renew or may suspend Suspension, or revoke a quarry permit on the grounds that,
 - (a) the permittee has contravened any provision of this Part:
 - (b) no operations have been carried on under the permit for a continuous period of more than six months;
 - (c) the permittee is not employing equipment that in the opinion of the Minister is proper and suitable for the operations pursuant to the permit; or
 - (d) the Minister considers the continuation of operations under the permit to be contrary to the public interest,

but, subject to subsection 8, before so doing he shall give the permittee notice of his intention to refuse to renew or to suspend or revoke the permit, together with written reasons therefor.

Notice requiring hearing (2) A notice under subsection 1 shall inform the permittee that he is entitled to a hearing by the Mining Commissioner if he mails or delivers a notice in writing requiring such hearing to the Minister within fifteen days after the notice under subsection 1 is served on him, and the Minister, on receipt of a notice requiring a hearing, shall refer the matter to the Commissioner for a hearing.

Powers of Minister where no hearing (3) Where a permittee does not require a hearing by the Commissioner in accordance with subsection 2, the Minister may carry out the intention stated in his notice under subsection 1.

Hearing

(4) Pursuant to a reference by the Minister under this section, the Commissioner shall hold a hearing as to whether the permit to which the hearing relates should be renewed or should be suspended or revoked, as the case may be, and the permittee and such other persons as the Commissioner may specify are parties to the hearing.

Application of 1971, c. . . .

(5) Sections 6 to 16 and sections 21 to 23 of *The Statutory Powers Procedure Act*, 1971 apply in respect of a hearing under this section.

Report to Minister (6) The Commissioner shall, at the conclusion of a hearing under this section, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the renewal, suspension or revocation of the permit to which the hearing relates, as the case may be, and shall send a copy of his report to the permittee to whom it relates.

Decision of

(7) After considering the report of the Commissioner under this section, the Minister may thereupon renew or refuse to renew, or suspend or revoke or refrain from suspending or revoking the permit to which the report relates and shall give notice of his decision to the permittee specifying the reasons therefor.

Provisional suspension,

(8) Notwithstanding anything in this section, the Minister, by notice to a permittee and without a hearing, may provisionally refuse renewal of or suspend the permittee's permit, where in the Minister's opinion the continuation of operations under the permit is in contravention of this Act, will cause damage to

property, or is an immediate threat to the public interest, and the Minister so states in the notice, giving his reasons therefor, and thereafter the Minister shall refer the matter to the Commissioner and subsections 3 to 6 apply and the provisional refusal or suspension terminates when the Minister's decision under subsection 6 becomes effective unless sooner terminated by the Minister.

- (8) Subsection 3 of section 125 of *The Mining Act* is R.S.O. 1960, repealed and the following substituted therefor:

 R.S.O. 1960, c. 241, s. 125, subs. 3, re-enacted
 - (3) Where the Commissioner is unable to perform his Acting Comduties because of illness, absence or for any other reason,
 - (a) the Minister may in writing appoint a person to exercise the powers of the Commissioner to make orders under section 92, but such person has only such powers of the Commissioner as are necessary for that purpose; or
 - (b) the Lieutenant Governor in Council may appoint a person to act in the stead of the Commissioner to perform the duties and exercise all the powers of the Commissioner under this Act.
 - (9) Section 128 of *The Mining Act* is repealed.

R.S.O. 1960, c. 241, s. 128, repealed

(10) Clause c of subsection 1 of section 133 of *The Mining* R.S.O. 1960, Act is repealed.

(11) Subsection 1 of section 134 of *The Mining Act* is R.S.O. 1960, amended by striking out "138" in the second line and insert-subs. 1, amended in in lieu thereof "136".

- (12) Subsection 5 of the said section 134 is amended by R.S.O. 1960, striking out "138" in the second line and inserting in lieu subs. 5, amended thereof "136".
- (13) Sections 135 and 137, section 138, as amended by $^{\rm R.S.O.\ 1960}_{\rm c.\ 241,\ ss.\ 135}$, section 10 of *The Mining Amendment Act, 1968*, and sections $^{\rm 137-141}_{\rm re-enacted}$ 139, 140 and 141 of *The Mining Act* are repealed and the re-enacted following substituted therefor:
 - 135.—(1) The recorder may give directions for the con-Directions as to conduct duct and carrying on of proceedings before him, and of in so doing he shall adopt the cheapest and simplest methods of determining the questions arising before

him that afford to all interested parties an adequate opportunity of knowing the issues in the proceedings and of presenting material and making representations on their behalf.

Reasons for decision

(2) The recorder shall give reasons for any decision made by him in proceedings before him.

Enforcement of decision

1971, c. . . .

(3) A copy of the final decision of a recorder may be filed in the office of the Registrar of the Supreme Court under section 19 of *The Statutory Powers Procedure Act, 1971*, which applies thereto.

Application of 1971, c. . . .

(4) Except as provided in subsection 3, *The Statutory Powers Procedure Act, 1971* does not apply to proceedings before the recorder.

Appeal to Commissioner 136.—(1) A person affected by a decision of or by any act or thing, whether ministerial, administrative or judicial, done, or refused or neglected to be done by a recorder may appeal to the Commissioner.

Appeal by Director (2) An appeal under subsection 1 may be taken by the Director or the Supervisor on his behalf where, in the opinion of the Minister, the public interest is affected, and no fee prescribed in the Schedule in respect of the appeal is payable by the Director or Supervisor.

How appeal instituted

(3) An appeal to the Commissioner shall be by notice in writing in the prescribed form, filed in the office of the recorder from whom the appeal is being taken and served upon all parties interested within fifteen days from the entry of the decision on the books of the recorder or the doing by the recorder of the act or thing appealed from, or within such further period of not more than fifteen days as the Commissioner may allow, but if the notice of appeal has been filed with the recorder within such time and the Commissioner is satisfied that it is a proper case for appeal and that after reasonable effort any of the parties entitled to notice could not be served within such time, the Commissioner may extend the time for appealing and make such order for substitutional or other service as he considers just, or if a person affected has not been notified as provided in sections 96 and 134, and appears to have suffered substantial injustice and has not been guilty of undue delay, the Commissioner may allow such person to appeal.

- (4) The notice of appeal shall contain or have endorsed Service of upon it an address in Ontario at which the appellant appeal may be served with any notice or document relating to the appeal, and any such notice or document is sufficiently served upon the appellant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered mail addressed to the appellant at such address.
- (5) If no address for service is given as provided in Where no address for subsection 4, any such notice or document may be service served upon the appellant by posting it up in the recorder's office.

137. The Commissioner shall determine,

Hearing

- (a) an appeal from a recorder, after a hearing by way of a hearing de novo; and
- (b) a dispute referred to in section 64 or a claim, question, dispute or other matter within his jurisdiction after a hearing,

pursuant to an appointment fixing the time and and place for the hearing.

- 138.—(1) Application to the Commissioner for an appoint-Application for appointment for a hearing may be made by any party to the ment for proceeding and may be verbal or written or may be ex parte or upon such notice to such persons as the Commissioner may direct.
 - (2) The Commissioner may fix such time for a hearing Time for as will permit the matter to be disposed of as promptly as possible, allowing adequate time to the parties to prepare their cases but, unless all parties consent thereto, the hearing shall be held not less than ten days after service of the appointment for the hearing on the parties.
 - (3) The Commissioner shall select as the place for a Place for hearing such place as he considers most convenient for the parties in the county or district or one of the counties or districts in which the lands or mining rights affected are situate unless it appears to him desirable that the hearing should be in some other county or district.

Leave for hearing (4) In any matter or proceeding, other than an appeal, the Commissioner may, if a certificate of record has been issued, require the applicant for an appointment to satisfy him that there is reasonable ground for the application or, in any such case or in any case where leave to take the proceeding is necessary, may give the appointment or leave only upon such terms as to security for costs or otherwise as he considers just.

Service of appointment for hearing 139.—(1) The Commissioner shall cause a copy of an appointment for a hearing before him to be served upon all parties, which shall, except in the case of an appeal or a dispute under section 64, state briefly the particulars of the right or question in issue or of the dispute.

Hearing may proceed in absence of party (2) The appointment shall state that if a person has been served does not attend the hearing, the Commissioner may proceed in his absence and he is not entitled to notice of any further proceedings.

Service deemed compliance with 1971, c. . . .

(3) Service by registered mail of the appointment and of the notice, if any, required under subsection 1 shall be a sufficient compliance with section 6 of *The Statutory Powers Procedure Act*, 1971.

Directions of Commissioner re proceedings

- 140.—(1) Sections 138 and 139 apply notwithstanding *The Statutory Powers Procedure Act, 1971* and, subject to that Act, the Commissioner may,
 - (a) give directions for having any matter or proceeding heard and decided without unnecessary formality;
 - (b) order the filing or serving of statements, particulars, objections or answers, the production of documents and things, and the making of amendments;
 - (c) give such other directions respecting the procedure and hearing as he considers proper;
 - (d) make any appointment, notice or other proceeding returnable forthwith or at such time as he considers proper; and
 - (e) order or allow such substituted or other service as he considers proper.

- (2) The Commissioner may take or order the evidence Taking of evidence of any witness to be taken at any place in or out of Ontario.
- 141. Notwithstanding *The Statutory Powers Procedure Act*, Decision 1971, the Commissioner may hear and dispose of any missioner application not involving the final determination of the matter or proceeding, either ex parte or on notice, at any place he considers convenient, and his decision upon any such application is final and is not subject to appeal but, where the Commissioner makes his decision ex parte he may subsequently reconsider and amend such decision.
- (14) Part VIII of The Mining Act, as amended by sections R.S.O. 1960, 38 and 39 of The Mining Amendment Act, 1962-63, section 8 Part VIII of The Mining Amendment Act, 1965, sections 16 and 17 of ss. 125-160), The Mining Amendment Act, 1967 and section 10 of The Mining Amendment Act, 1968, is further amended by adding thereto the following section:
 - 143a. Where the Commissioner receives any opinion, Disclosure report or evidence under section 142 or 143 in any to parties proceeding before him, the opinion, report or evidence shall be disclosed to the parties to the proceeding who, if they so request, shall be afforded an opportunity of cross-examining the person expressing the opinion, making the report or giving the evidence.
- (15) Section 148 of The Mining Act is repealed and the R.S.O. 1960, following substituted therefor:
 - 148. The evidence taken before the Commissioner shall Recording of evidence be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (16) Subsection 2 of section 152 of *The Mining Act* is R.S.O. 1960. pealed and the following substituted therefor: repealed and the following substituted therefor:
 - (2) The order or judgment of the Commissioner, with the Documents evidence, exhibits, the statement, if any, of view in recorder's or of special knowledge or skill, and the reasons for his decision shall be filed in the office of the recorder of the division in which the property in question or part of it is situate or, where section 21 applies, with the Deputy Minister, and the recorder or Deputy Minister shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to parties not represented by a solicitor.

R.S.O. 1960, c. 241, Part VIII (ss. 125-160), amended

Stay of proceedings

(17) Part VIII of *The Mining Act* is further amended by adding thereto the following section:

1971, c. . . .

154a. Where a certified copy of a final decision of a recorder has been filed in the office of the Registrar of the Supreme Court under section 19 of *The Statutory Powers Procedure Act, 1971*, the Commissioner or the court or a judge thereof may stay proceedings therein if an appeal from the decision is brought until final disposition of the appeal.

R.S.O. 1960, c. 241, s. 156, re-enacted (18) Section 156 of *The Mining Act* is repealed and the following substituted therefor:

Time for appeal R.S.O. 1960,

156.—(1) Except in the case of a reference under section 131 or *The Arbitrations Act*, the order or judgment of the Commissioner is final and conclusive unless, where an appeal lies, it is appealed from within fifteen days after the filing thereof in accordance with section 152, or within such further period of not more than fifteen days as the Commissioner or a judge of the Supreme Court may allow.

Notice of appeal

(2) The appeal shall be begun by filing a notice of appeal with the recorder with whom the order or judgment appealed from is filed under section 152 or, where section 21 applies, with the Deputy Minister, paying to him the prescribed fee and filing the notice of appeal with the Registrar of the Supreme Court and, unless the notice of appeal is filed with the Registrar of the Supreme Court and a certificate of such filing is lodged with the recorder or Deputy Minister within five days after the expiration of such fifteen days, or any further time allowed under subsection 1, the appeal shall be deemed to be abandoned.

Transmission of documents

(3) The recorder or, where section 21 applies, the Deputy Minister shall, forthwith after the filing of the notice of appeal and payment of the prescribed fee, transmit by registered mail or by express to the office of the Registrar of the Supreme Court, Toronto, the order or judgment appealed from and all the exhibits, papers and documents filed therewith.

Extension

(4) Where the time for appealing is extended under subsection 1, the appellant shall forthwith transmit the order for the extension or a duplicate thereof by registered mail to the recorder, or where section 21 applies, to the Deputy Minister.

- (5) The practice and procedure on an appeal including Practice the form of notice of appeal, service of the notice of appeal on the parties, and the disposition of costs on an appeal, shall be governed by the rules of court.
- (19) Section 157 of *The Mining Act* is repealed and the $^{\rm R.S.O.~1960}_{\rm c.~241,~s.~157}$, following substituted therefor:
 - 157.—(1) No proceedings by way of an application for Judicial review judicial review under *The Judicial Review Procedure* 1971, c. . . . *Act, 1971*, or, except in proceedings provided for under this Act, by way of other proceedings whatsoever, may be brought to call into question,
 - (a) any decision made or purporting to have been made by a recorder under this Act, more than thirty days after entry of the decision by the recorder in the books of his office;
 - (b) any order or judgment given or made or purporting to have been given or made by the Commissioner under this Act, more than thirty days after filing of the order or judgment of the Commissioner in accordance with section 152; or
 - (c) the validity of any act or thing done or purporting to have been done under this Act by the recorder or by any other officer appointed under this Act, more than thirty days after the time when such act or thing was done.
 - (2) Notwithstanding anything in *The Judicial Review* No extension *Procedure Act, 1971*, no court may extend any limitation of time fixed in subsection 1.
- (20) Section 158 of *The Mining Act* is repealed and the R.S.O. 1960, following substituted therefor: re-enacted
 - 158. Where the validity of a proceeding before the Com-Defects in missioner or a recorder is called into question in any court on the ground of any defect of form or substance or failure to comply with this Act or the regulations, notwithstanding that such defect or failure is established, the court shall not, if no substantial wrong or injustice has been thereby done or occasioned, invalidate the proceeding by reason thereof, but shall confirm the proceeding, and, upon

such confirmation, the proceeding shall be and be deemed to have been valid and effective from the time when it would otherwise have been effective but for such defect or failure.

R.S.O. 1960, c. 241, Part X (1961-62, c. 81, s. 1), amended

(21) Part X of *The Mining Act*, as re-enacted by section 1 of *The Mining Amendment Act*, 1961-62, is amended by adding thereto the following section:

Reference for hearing and report

615a.—(1) Before refusing to renew, or suspending, cancelling or revoking a refinery licence or certificate of exemption under section 615, the Minister shall refer the matter to a person appointed by him for a hearing and report.

Hearing

(2) Where a matter is referred by the Minister under subsection 1, the person appointed shall hold a hearing as to whether the refinery licence or certificate of exemption to which the hearing relates should be renewed or should be suspended, cancelled or revoked, as the case may be, and the licensee or certificate holder and such other persons as the person holding the hearing may specify are parties to the hearing.

Application of 1971, c. ...

(3) Sections 6 to 16 and sections 21, 22 and 23 of *The Statutory Powers Procedure Act, 1971* apply in respect of a hearing under this section.

Report

(4) The person holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations, any conclusions of law he has arrived at relevant to these recommendations, and his recommendations as to the renewal, suspension, cancellation or revocation of the refinery licence or certificate of exemption, as the case may be, and shall send a copy of his report to the licensee or certificate holder to whom it relates.

Decision of Minister (5) After considering a report made under this section, the Minister shall thereupon decide whether or not to refuse to renew or to suspend, cancel or revoke the refinery licence or certificate of exemption to which the report relates, and shall give notice of his decision to the licensee or certificate holder specifying the reasons therefor.

R.S.O. 1960, c. 241, s. 619 (1961-62, c. 81, s. 1), re-enacted (22) Section 619 of *The Mining Act*, as re-enacted by section 1 of *The Mining Amendment Act*, 1961-62, is repealed and the following substituted therefor:

619. The Minister may appoint any person to conduct an Inquiry of complaints inquiry into any charge or complaint that a person has contravened any of the provisions of this Part or into any matter or thing connected with or arising out of the operation of this Part, and such person, for the purposes of the inquiry, has the powers of a commission under Part II of *The Public* 1971, c. ... Inquiries Act, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

(23) Clause d of subsection 1 of section 647 of *The Mining* $^{\text{R.S.O. 1960}}_{\text{c. 241, s. 647}}$, subs. 1, cl. d, repealed.

(24) Subsection 3 of section 653 of *The Mining Act* is $^{R.S.O.\ 1960}_{c.\ 241,\ s.\ 653}$, repealed and the following substituted therefor: subs. 3, re-enacted

- (3) An order made under this section shall be served Service of in such manner as the Commissioner directs.
- (3a) If a co-owner, upon whom an order made under sub-Diability section 1 has been served, disputes his liability to his co-owner or otherwise to make any payment under the order or the amount thereof, he may, within the time limited by the order for making the payment, apply to the Commissioner for a hearing and the Commissioner shall, after a hearing, determine the dispute and may affirm, amend or rescind the order or make such other order as he considers just, and, if the Commissioner orders that a payment be made, he may fix the time for payment thereof.
- (3b) Where the time for payment fixed by an order made Vesting under subsection 1 has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection 3a has expired, and where such additional time, if any, as has been granted by the Commissioner has expired, if it is proved to the satisfaction of the Commissioner that the payment has not been made, he may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the rents or made the expenditure.
- (25) Section 669 of *The Mining Act* is repealed and the follow- $^{\text{R.S.O. 1960}}_{\text{c. 241, s. 669}}$, ing substituted therefor:
 - 669.—(1) Any person claiming an interest in any lands or missioner may settle mining rights entered on the tax roll or whose name dispute

has been entered on the tax roll, as being liable to the acreage tax or who disputes the amount of the tax levied on any lands or mining rights in which he has an interest may apply to the Commissioner to determine whether such lands and mining rights are or whether he is liable to the acreage tax and to be entered on the tax roll or the amount of the tax payable, and the Commissioner shall hear and determine such matter.

Minister to be party (2) The Minister is a party to any proceedings before the Commissioner under this section

Omissions from tax (3) The Minister may refer to the Commissioner for hearing and adjudication any question or dispute as to whether any mining rights or lands have or any person has been wrongfully omitted from the tax roll.

R.S.O. 1960, c. 241, s. 670, subs. 3, re-enacted

(26) Subsection 3 of section 670 of *The Mining Act* is repealed and the following substituted therefor:

Service of order

(3) An order made under this section shall be served in such manner as the Commissioner may direct.

Disputes as to liability

(3a) If a co-owner, upon whom an order made under subsection 1 has been served, disputes his liability to his co-owner or otherwise to make any payment under the order or the amount thereof, he may, within the time limited by the order for making the payment, apply to the Commissioner for a hearing and the Commissioner shall hear and determine the dispute and may affirm, amend or rescind the order or make such other order as he considers just, and, if the Commissioner orders that a payment be made, he may fix the time for payment thereof.

Vesting order (3b) Where the time for payment fixed by an order made under subsection 1 has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection 3a has expired, and where such additional time, if any, as has been granted by the Commissioner has expired, if it is proved to the satisfaction of the Commissioner that the payment has not been made, he may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the taxes.



Section 60. See explanatory note to similar amendments to *The Collection Agencies Act, 1968-69* in section 21 of this Bill and also the explanatory note to the amendments to *The Department of Financial and Commercial Affairs Act, 1966* in section 28 of this Bill.

- **60.**—(1) Section 1 of *The Mortgage Brokers Act, 1968-69*, is amended by relettering clause a as clause aa and by amended adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;
 - (ba) "dwelling" means any premises or any part thereof occupied as living accommodation.
- (2) Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 1968-69, 19 and 20 of *The Mortgage Brokers Act*, 1968-69 are repealed re-enacted; ss. 8-20, repealed repealed
 - 5.—(1) An applicant is entitled to registration or re-Registration of mortgage newal of registration by the Registrar except where, brokers
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
 - (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.
 - (2) A registration is subject to such terms and con-Conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.

Refusal to register 6.—(1) Subject to section 7, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5.

Revocation

(2) Subject to section 7, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke 7.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing (2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.

Powers of Registrar where no hearing (3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

Powers of Tribunal where hearing (4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal, or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

- (7) Notwithstanding subsection 1, the Registrar may Voluntary cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.
- (8) Where, within the time prescribed therefor or, if no continuation of registration time is prescribed, before expiry of his registration, tion pending a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.
- (9) Notwithstanding that a registrant appeals from an Order of Order of the Tribunal under section 8e of The Depart- effective, stay ment of Financial and Commercial Affairs Act, 1966, 1966, c. 41 the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.
- (3) Clause a of subsection 1 of section 24 of The Mortgage $^{1968-69}_{c.\ 71,\ s.\ 24}$, Brokers Act, 1968-69 is repealed and the following substituted subs. 1, cl. a, therefor:
 - (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and
- (4) Section 25 of *The Mortgage Brokers Act*, 1968-69 is $^{1968-69}_{c. 71, s. 25}$, repealed and the following substituted therefor:
 - 25. The Minister may by order appoint a person to Investigations on make an investigation into any matter to which this order of Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to ¹⁹⁷¹, c. ... such investigation as if it were an inquiry under that Act.

Investigations by Director

- 25a.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,
 - (a) contravened any of the provisions of this Act or the regulations;

1953-54, c. 51, (Can.)

- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act;
- (c) by any false, misleading or deceptive statement or advertisement, representation or promise, or by any dishonest concealment of material facts, induced or attempted to induce any person to borrow money or to be responsible for the repayment thereof or to agree to the terms of any transaction with respect to money lent on the security of a mortgage; or
- (d) induced or attempted to induce any person to pay or be responsible for the payment of excessive or exorbitant fees or expenses in connection with a loan on the security of a mortgage,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence or such conduct has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

- (2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,
 - (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
 - (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated

in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of The Public Inquiries Act, 1971, c. ... 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

- (3) No person shall obstruct a person appointed to make Obstruction an investigation under this section or withhold from investigator him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.
- (4) Where a provincial judge is satisfied, upon an ex Search parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subjectmatter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this Removal of section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters confidential

- 25b.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 22, 23, 24, 25 or 25a shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceedings with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

1968-69, c. 71, s. 26, subs. 1, re-enacted (5) Subsection 1 of section 26 of *The Mortgage Brokers Act*, 1968-69 is repealed and the following substituted therefor:

Order to refrain from dealing with assets

- 26.—(1) Where,
 - (a) an investigation of any person has been ordered under section 25a; or
 - (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out

of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver. custodian, trustee, receiver or liquidator appointed R.S.O. 1960, under the *Bankruptcy Act* (Canada), *The Judicature* 1970, c. 25 Act, The Corporations Act, The Business Corporations Act, 1970 or the Winding-up Act (Canada) or until cc. 14, 296, the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

(6) The said section 26 is amended by adding thereto the 1968-69, c. 71, s. 26, following subsection:

(5) Any person referred to in clause a or b of subsection Cancellation of direction 1 in respect of whom a direction has been given or registration by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

(7) Section 28 of The Mortgage Brokers Act, 1968-69 is 1968-69, c. 71, s. 28, re-enacted repealed and the following substituted therefor:

False advertising 28. Where the Registrar believes on reasonable and probable grounds that a mortgage broker is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

1968-69, c. 71, s. 29, subs. 2, re-enacted (8) Subsection 2 of section 29 of *The Mortgage Brokers Act*, 1968-69 is repealed and the following substituted therefor:

Where service deemed to be made (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

1968-69, c. 71, s. 32, cl. *d*, amended (9) Clause d of section 32 of *The Mortgage Brokers Act*, 1968-69 is amended by striking out "or to any such person, document or material" in the second and third lines.

R.S.O. 1960, c. 268, s. 1, amended

- **61.**—(1) Section 1 of *The Oleomargarine Act* is amended by relettering clause a as clause ad and by adding thereto the following clauses:
 - (a) "chief inspector" means the chief inspector appointed under this Act;

1965, c. 72

- (ab) "Commission" means The Milk Commission of Ontario established by The Milk Act, 1965;
- (ac) "licence" means a licence under this Act.

R.S.O. 1960, c. 268, s. 6, subs. 1, re-enacted (2) Subsection 1 of section 6 of *The Oleomargarine Act* is repealed and the following substituted therefor:

Licence required (1) No person shall manufacture or sell by wholesale oleomargarine without a licence therefor from the chief inspector.

R.S.O. 1960, c. 268, amended (3) The Oleomargarine Act is amended by adding thereto the following sections:

Section 61. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63*, and are explained in the explanatory note to section 9 of this Bill.



- 6a.—(1) The chief inspector shall issue a licence to a Licence, person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing,
 - (a) he finds that,
 - the applicant was previously the holder of a licence and such licence was cancelled under this Act, or
 - (ii) the applicant or, where the applicant is a corporation, any officer or director thereof or any person who will be associated with the applicant in the operations pursuant to the licence was convicted of an offence under this Act.

and in his opinion the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

- (b) he is of opinion that,
 - (i) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law, or
 - (ii) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
- (2) Subject to section 6b, the chief inspector shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 6b.—(1) The chief inspector may refuse to renew or may suspend or cancel a licence if, after a hearing, he finds that,
 - (a) the licensee or, where the licensee is a cor-Refusal to renew, poration, any officer, director or servant there-suspension of, has contravened or has permitted any lation person under his control or direction or associated with him in connection with his or its operations as a licensee to contravene any provision of this Act or the regulations or a term or condition of the licence or has been

convicted of an offence under this Act and such contravention or conviction in his opinion warrants such refusal to renew, suspension or cancellation of the licence; or

(b) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the chief inspector, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the opinion of the chief inspector it is necessary to do so for the immediate protection of the safety or health of any person or the public and and he so states in such notice giving his reasons therefor, and thereafter the chief inspector shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation of licence pending renewal

(3) Subject to subsection 2, where, within the time prescribed or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal.

Notice of hearing

6c.—(1) The notice of a hearing by the chief inspector under section 6a or section 6b shall afford the applicant or licensee reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by chief inspector

6d. Where the chief inspector has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was

the applicant or licensee vary or rescind his decision, but he shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

6e.—(1) Where the chief inspector refuses to issue or Appeal to Commission renew, or suspends or cancels a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Commission within fifteen days after receipt of the decision of the chief inspector, appeal to the Commission.

(2) The Commission may extend the time for the giving Extension of time of notice by an applicant or licensee under sub- for appeal section 1, either before or after expiration of such time, where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.

(3) Where an applicant or licensee appeals to the Powers of Commission Commission under this section, the Commission shall hear the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and as the Commission considers proper and, for such purpose, the Commission may substitute its opinion for that of the chief inspector.

- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending disposal of chief inspector, unless the chief inspector otherwise appeal directs, the decision of the chief inspector is effective until the appeal is disposed of.
- 6f.—(1) The chief inspector, the appellant and such other Parties persons as the Commission may specify are parties to the proceedings before the Commission under this Act.
- (2) Members of the Commission assigned to render a Members making decision after a hearing shall not have taken part decision not to prior to the hearing in any investigation or con-have taken sideration of the subject-matter of the hearing and investigashall not communicate directly or indirectly in rela-tion, etc.

tion to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Commission at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(4) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

Only members at hearing to participate in decision (5) No member of the Commission shall participate in a decision of the Commission pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

Appeal to court

6g.—(1) Any party to proceedings before the Commission may appeal from the decision of the Commission to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Commission shall certify to the Registrar of the Supreme Court the record of the proceedings before the Commission which, together with a transcript of the evidence before the Commission, if it is not part of the Commission's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Commission or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Commission for reconsideration by



Section 62. Section 12 of the Act provides that no new wholesale market for fruit and vegetables may be established in Metropolitan Toronto, The Regional Municipality of York, or the County of Peel without the approval of the Ontario Food Terminal Board. Provision is made for an appeal to the Minister.

No new rules made by the Board are to take effect until approved by the Minister.

SECTION 63.

- 1. A report on behalf of the Board as a result of a hearing can only be made by the member or members of the Board holding the hearing.
- 2. Provision is expressly made that the procedural provisions of *The Statutory Powers Procedure Act, 1971* apply to the Board, otherwise they would not apply to proceedings by the Board since the Board does not make decisions but only makes reports.
- 3. Standard provisions are enacted to ensure impartiality on the part of the Board.
- 4. Cases stated by the Board and appeals from the Board will go to the Divisional Court rather than the Court of Appeal.

These amendments should be read with the amendments to *The Public Commercial Vehicles Act* and *The Public Vehicles Act* under which the Board holds its hearings.

the Commission as the court considers proper and the court may substitute its opinion for that of the chief inspector or the Commission.

(5) Notwithstanding that an applicant or licensee has Effect of decision of appealed under this section from a decision of the Commission Commission, unless the Commission otherwise directs, disposal the decision of the Commission is effective until the of appeal appeal is disposed of.

- (4) Subsection 1 of section 8 of *The Oleomargine Act* is R.S.O. 1960, c. 268, s. 8, repealed and the following substituted therefor:

 subs. 1, re-enacted
 - (1) The Lieutenant Governor in Council may appoint a Inspectors, chief inspector and such inspectors and analysts as are considered necessary for the administration and enforcement of this Act and the regulations.
- **62.**—(1) The Ontario Food Terminal Act is amended by R.S.O. 1960, adding thereto the following section:
 - 12a. Where the Board refuses an approval requested under Appeal to section 12, the applicant for approval may appeal from the decision of the Board to the Minister who, after affording the applicant an opportunity to make representations, may confirm, rescind or alter the decision of the Board as the Minister considers proper, and the decision of the Minister is final.
- (2) Section 14 of *The Ontario Food Terminal Act* is amended R.S.O. 1960, by adding thereto the following subsection:
 - (2) No rule hereafter made under subsection 1 takes Approval of effect until it is approved by the Minister.
- **63.**—(1) Section 5a of The Ontario Highway Transport R.S.O. 1960, Board Act, as enacted by section 3 of The Ontario Highway (1961-62, c. 92, s. 3), Transport Board Amendment Act, 1961-62, is repealed and the re-enacted following substituted therefor:
 - 5a.—(1) The chairman may authorize one member of One the Board to hear and dispose of any application or may be authorized reference to the Board, and such member may to hear exercise all the powers of the Board with respect to the hearing and disposal of such application or reference.
 - (2) Any decision or report of a member of the Board Decision of made under subsection 1 shall be deemed to be a decision or report of the Board for the purposes of this Act.

R.S.O. 1960, c. 273, s. 9, repealed (2) Section 9 of The Ontario Highway Transport Board Act is repealed.

R.S.O. 1960, c. 273, s. 11, subs. 1, re-enacted (3) Subsection 1 of section 11 of *The Ontario Highway Transport Board Act* is repealed and the following substituted therefor:

Members of Board not personally liable (1) No member of the Board and no officer, agent or employee of the Board is personally liable for anything done by him in good faith under the authority of this Act or the regulations.

Crown not relieved of liability 1962-63, c. 109

(1a) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act, 1962-63*, relieve the Crown of liability in respect of a tort to which it would otherwise be subject, and the Crown is liable under that Act for any tort in a like manner as if subsection 1 had not been enacted.

R.S.O. 1960, c. 273, amended (4) The Ontario Highway Transport Board Act is amended by adding thereto the following sections:

Application of 1971, c. . . . to hearings

17a.—(1) Sections 4 to 24 of *The Statutory Powers Procedure Act, 1971* apply with respect to any hearing by the Board and the proceedings relating thereto.

Parties to rehearing (2) Where the Board holds a rehearing under section 16, the parties to the proceedings relating to the rehearing are the persons who were parties to the initial hearing and such other persons as the Board may specify.

Members making decision not to have taken part in prior investigation

- 17b.—(1) Members of the Board assigned to render a decision or report after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or any party or his representative except upon notice to and opportunity for all parties to participate, but such members may without such notice,
 - (a) consult with other members of the Board; and
 - (b) seek legal advice from a legal adviser independent of the parties but in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

- (2) The findings of fact by the Board pursuant to a hearing Findings shall be based exclusively on the evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971.* 1971, c. ...
- (3) The oral evidence admitted at a hearing by the Board Recording relating to the suspension or cancellation of an operating licence or the issue or cancellation of a vehicle licence under *The Public Vehicles Act* or *The* R.S.O. 1960, *Public Commercial Vehicles Act* shall be taken down in 125 writing or by any other method authorized by *The Evidence Act*.
- (4) No member of the Board shall be a party to a members decision or report of the Board made after a hearing at hearing to participate unless he was present throughout the hearing and in decision heard the evidence and arguments of the parties and no decision or report, except with the consent of the parties, shall be given unless all members so present participate in the decision or report.
- (5) Section 19 of *The Ontario Highway Transport Board Act* R.S.O. 1960, is repealed and the following substituted therefor:

 re-enacted
 - 19.—(1) The Board shall, at the request of the Lieutenant Stated Governor in Council, or may, of its own motion or upon the application of any party to proceedings before the Board, state a case in writing for the opinion of the Supreme Court upon any question of law.
 - (2) If, on the application of a party to proceedings be-Where fore it, the Board refuses to state a case under refuses to subsection 1, such party may apply to the Supreme state case Court for an order directing the Board to state such a case.
 - (3) The Supreme Court shall hear and determine any Determinacase stated to it under this section and remit it to the Board with the opinion of the court thereon.
- (6) Subsection 1 of section 21 of *The Ontario Highway* R.S.O. 1960, *Transport Board Act* is repealed and the following substituted subs. 1, re-enacted therefor:
 - (1) An appeal lies from the Board to the Supreme Appeal on Court from any decision, order or report of the jurisdiction Board upon any question of jurisdiction or upon any question of law, but no such appeal lies unless

leave to appeal is obtained from the court within one month of the making of the decision or order sought to be appealed from or within such further time as the court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal.

R.S.O. 1960, c. 273, s. 23, subs. 1, re-enacted (7) Subsection 1 of section 23 of *The Ontario Highway Transport Board Act* is repealed and the following substituted therefor:

Practice and procedure

(1) The Lieutenant Governor in Council may make regulations governing the practice and procedure in proceedings before the Board.

1961-62, c. 93, ss. 12, 13, re-enacted **64.** Sections 12 and 13 of *The Ontario Human Rights Code*, 1961-62 are repealed and the following substituted therefor:

Complaints

12.—(1) Any person who has reasonable grounds for believing that any person has contravened a provision of this Act may file with the Commission a complaint in the form prescribed by the Commission.

Consent of offended person

(2) Where a complaint is made by a person other than the person whom it is alleged was dealt with contrary to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto.

Inquiry and settlement

13.— (1) Where a complaint has been filed with the Commission, the Commission or a person designated by it shall inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Access to premises (2) For the purposes of an inquiry under subsection 1, the Commission, or any person so designated on production of evidence of his designation, shall have access to and may view the premises involved in the complaint, other than an occupied place of residence, at all reasonable times and at any time when the premises are open for business or when employees are engaged in their work.

Warrant

(3) Where a justice of the peace is satisfied by information upon oath that there is reasonable ground for believing that access to an occupied place of residence is required for the purposes of an inquiry under this Act, he may, at any time issue a warrant pursuant to section 14 of *The Summary Convictions Act* authorizing the Commission or other person named therein

R.S.O. 1960, c. 387

SECTION 64.

- 1. A person affected by a complaint must consent to proceedings being taken under the Act.
- 2. The operations of boards of inquiry are restricted to the exercise of judicial functions without investigatory functions and their powers are clarified.
 - 3. A board of inquiry is required to act impartially in its proceedings.
- 4. Findings of fact of a board of inquiry must be based on evidence which is to be recorded.
- 5. An appeal is provided from a decision of a board of inquiry on all questions of law or fact or both to the Divisional Court.
- ${\bf 6}.$ Investigatory powers formerly conferred on boards of inquiry are now conferred on the Commission.

The procedure provided in The Statutory Powers Procedure Act, 1971 will apply to proceedings by a board of inquiry.



to enter and view such place of residence and every such warrant shall be executed between sunrise and sunset, unless the justice otherwise directs.

(4) The Commission or a person designated by it, has Inspection of the same powers for the purposes of an inquiry under this section to inspect and examine books, payrolls, records and other documents and to take extracts or copies thereof, and to enter premises and to question employees as are possessed by the Director of Employment Standards under section 33 of The Employment Standards Act, 1968.

1968, c. 35

13a.—(1) Where it appears to the Commission that a Board of inquiry complaint will not be settled, the Commission shall make a recommendation to the Minister as to whether or not a board of inquiry should be appointed, and the Minister may, in his discretion, appoint a board of inquiry consisting of one or more persons to hear and decide the complaint.

- (2) Forthwith after the appointment of a board of inquiry, Parties to be the Minister shall communicate the names of the membership of board members of the board to,
 - (a) the Commission; and
 - (b) the parties referred to in clauses b, c and d of subsection 1 of section 13b,

and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

- (3) The Lieutenant Governor in Council may determine Remunerathe remuneration of the chairman and the members members of board of a board of inquiry appointed under this section.
- 13b.—(1) The parties to a proceeding before a board of Parties to inquiry with respect to any complaint are,
 - (a) the Commission, which shall have the carriage of the complaint;
 - (b) the person named in the complaint as the complainant;
 - (c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;

- (d) any person named in the complaint as alleged to have contravened this Act; and
- (e) any other person specified by the board upon such notice as the board may determine and after such person has been given an opportunity to be heard against his joinder as a party.

Copy of complaint annexed to notice (2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party except the Commission.

Members at hearing not to have taken part in investigation, etc. (3) A member of the board hearing a complaint, shall not have taken part in any investigation or consideration of the complaint prior to the hearing and shall not communicate directly or indirectly in relation to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(4) The oral evidence taken before a board at a hearing shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (5) The findings of fact of the board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

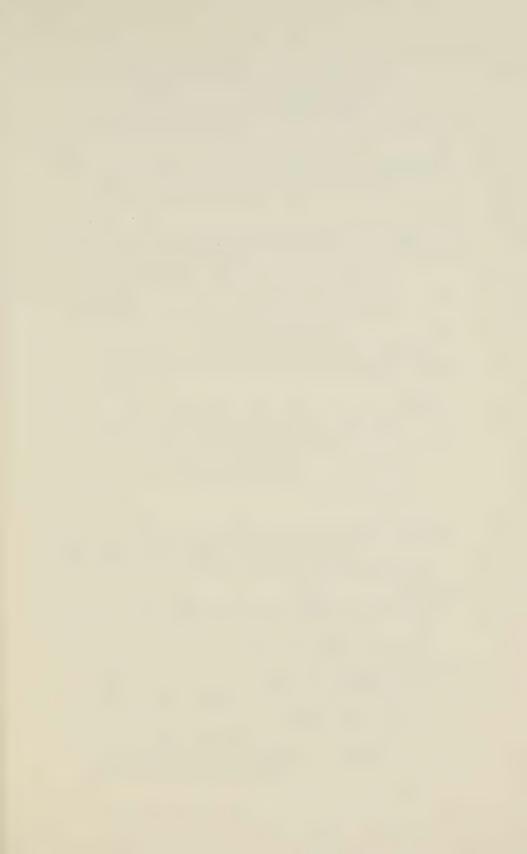
of board

Jurisdiction

(6) Subject to appeal under section 13d, the board of inquiry has exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.

Powers of board

- 13c. The board, after hearing a complaint,
 - (a) shall decide whether or not any party has contravened this Act; and



SECTION 65.

- 1. Where the Board of Examiners proposes to refuse to renew or to suspend or cancel a certificate of qualification of an operating engineer or operator the holder of a certificate may apply to a judge of the county or district court for a hearing.
- 2. Where the holder of a certificate has duly applied for renewal of it, it continues until his application is finally disposed of.
- 3. Procedural provisions supplementing The Statutory Powers Procedure Act, 1971 are proposed.
- 4. An appeal may be taken from the decision of a judge to the Divisional Court.
- 5. An appeal is provided from the decision of the chief officer to the judge of the county or district court.

- (b) may order any party who has contravened this Act to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision and to rectify any injury caused to any person or to make compensation therefor.
- 13d.—(1) Any party to a hearing before a board may Appeal from appeal from the decision or order of the board to the board Supreme Court in accordance with the rules of court.
 - (2) Where notice of an appeal is served under this section, Record to be the board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made, which, together with a transcript of the oral evidence taken before the board if it is not part of the record of the board, shall constitute the record in the appeal.
 - (3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under this to be heard section.
 - (4) An appeal under this section may be made on Powers questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act and the court may substitute its opinion for that of the board
- **65.**—(1) Subsection 1 of section 24 of *The Operating* ^{1965, c. 92,} Engineers Act, 1965 is amended by adding at the commence-amended ment thereof "Subject to section 24a".
 - (2) Subsections 2 and 3 of the said section 24 are repealed. $^{1965, c. 92,}_{s. 24, subss. 2, 3,}$ repealed
- (3) The Operating Engineers Act, 1965 is amended by adding $^{1965}_{amended}$ thereto the following sections:
 - 24a.—(1) Where the Board proposes to refuse to renew or Notice of proposel to suspend or cancel a certificate of qualifica-suspend, etc., tion, it shall serve notice of its proposal, together with written reasons therefor, on the holder of the certificate.
 - (2) A notice under subsection 1 shall inform the holder Hearing of the certificate that he is entitled to a hearing by a judge if he applies therefor to a judge of the county or

district court for the county or district in which he resides within fifteen days after the notice under subsection 1 is served on him and he may so apply for such a hearing.

Powers of Board where no hearing (3) Where a holder of a certificate does not apply to a judge for a hearing in accordance with subsection 2, the Board may carry out the proposal stated in its notice under subsection 1.

Powers of Board where hearing (4) Where a holder of a certificate applies to a judge for a hearing in accordance with subsection 2, the judge shall appoint a time for and hold the hearing and, on the application of the Board at the hearing, may by order direct the Board to carry out its proposal or refrain from carrying out its proposal and to take such action as the judge considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Board.

Service of notice by Board (5) The Board may serve notice under subsection 1 personally or by registered mail addressed to the holder of the certificate at his address last known to the Board and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for application (6) A judge to whom application is made by a holder of a certificate for a hearing under this section, may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the holder of the certificate pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension.

Continuation of certificate pending renewal

- (7) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his certificate, a holder of a certificate has applied for renewal of his certificate and paid the prescribed fee, his certificate shall be deemed to continue,
 - (a) until the renewal is granted; or

- (b) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision.
- 24b.—(1) The Board, the holder of the certificate who has Parties applied for the hearing and such other persons as are specified by the judge are parties to the proceedings before a judge under section 24a.
 - (2) Notice of a hearing under section 24a shall afford to Notice of the holder of the certificate a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the certificate.
 - (3) A holder of a certificate who is a party to pro-Examination ceedings under section 24a shall be afforded an oppor-mentary evidence tunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
 - (4) The oral evidence taken before the judge at a hearing Recording shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
 - (5) The findings of fact of a judge pursuant to a hearing Findings shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.
- (4) Section 25 of *The Operating Engineers Act, 1965* is $^{1965}_{s.\,25,}$ repealed and the following substituted therefor:
 - 25.—(1) Any party to proceedings before a judge under Appeal from section 24a may appeal from the decision or order of judge to the judge to the Supreme Court in accordance with the rules of court.
 - (2) Where notice of an appeal is served under this Records to section, the judge shall forthwith file in the Supreme in court Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal

(4) The Supreme Court may, on the appeal, affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations and may order the Board to do any act or thing it is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Board or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Appeal from decision of chief officer

25a.—(1) Any person who deems himself aggrieved by a decision of the chief officer under this Act or the regulations may, within ten days after the decision comes to his attention, appeal to a judge of the county or district court for the county or district in which the plant, boiler or other subject-matter to which the decision relates is located, by notice in writing sent by prepaid mail to the chief officer and the judge.

Powers of judge on appeal

(2) Where a person has appealed to a judge under subsection 1, the judge shall appoint a time for a hearing and shall hear the appeal and may affirm, rescind or vary the decision of the chief officer and may direct the chief officer to take any action that he is authorized to take under this Act or the regulations and as the judge considers proper and for such purpose the judge may substitute his opinion for that of the chief officer.

Application of section 24a

(3) Subsection 6 of section 24a applies mutatis mutandis to an appeal under this section.

Parties

(4) The chief officer, the appellant and such other persons as the judge may specify are parties to an appeal under this section.

Decision of judge final

(5) A decision of a judge under this section is final.

Effect of decision pending disposal of appeal 25b. The bringing of an appeal under section 25 or 25a does not affect the operation of the decision appealed from pending disposition of the appeal.

1965, c. 92, s. 33, cl. *o*, repealed

(5) Clause o of section 33 of The Operating Engineers Act, 1965 is repealed.



SECTION 66.

- 1. A hearing is required to be held before refusal to issue or renew a licence.
- 2. If application has been duly made for renewal of a licence the licence is continued until the application is disposed of.

SECTION 67.

- 1. The grounds for refusal to issue or renew or for revocation or suspension of a licence are transferred from the regulations to the Act.
- 2. Where the Director proposes to issue or renew or to suspend or revoke a licence he is required to give notice of his proposal to the applicant or licensee who may require a hearing by the Pesticide Licence Review Board.
- 3. Where a licensee has duly applied for a renewal of his licence it is continued until his application is finally disposed of.
- 4. Procedural provisions supplementary to *The Statutory Powers Procedure Act, 1971* are proposed.
 - 5. An appeal lies from the Board to the Divisional Court.
- 6. The Act now relieves the Director, any member of the Board or of the Committee or anyone acting under their direction from personal liability for acts done in good faith in the execution of their duty. The amendments propose that this should not relieve the Crown of liability it might otherwise bear.
- 7. The designated officer who hears appeals from orders of the inspectors is required to afford a hearing to the parties affected.

- **66.** The Pawnbrokers Act, 1966 is amended by adding amended, thereto the following section:
 - 2a.—(1) No application for a licence or renewal of a Application licence to carry on the business of a pawnbroker shall be refused until after the applicant has been afforded a hearing by the licence issuing authority.
 - (2) Where, within the time prescribed therefor or, if no Continuation time is prescribed, prior to the expiry of his licence, pending the holder of a licence to carry on the business of a pawnbroker has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) until the application has been finally determined by the licence issuing authority or, where there is an appeal from the decision of the licence issuing authority, until the last day for launching an appeal or such later date as may be fixed by the body to whom the appeal may be taken.
- **67.**—(1) Clause h of section 1 of *The Pesticides Act*, 1967 1967, c. 74, is amended by inserting after "under" in the first line "this amended Act and".
- (2) Section 6 of *The Pesticides Act, 1967*, as re-enacted by $^{1967}_{s.6}$, c. 74, section 2 of *The Pesticides Amendment Act, 1970*, is repealed (1970, c. 104, and the following substituted therefor:
 - 6.—(1) Subject to subsection 2, where a person applies Licence, for a licence in accordance with this Act and the regulations and otherwise complies with the requirements of this Act and the regulations for the particular class of licence applied for, the Director shall issue a licence to him.
 - (2) Subject to section 7a, where an applicant for a licence Refusal does not comply with the requirements of subsection 1, the Director shall refuse to issue a licence to him.
 - 6a.—(1) A licence expires on the 15th day of February Term of in the year next following the year in which it was issued.
 - (2) Subject to section 6b, where a licensee applies for a Renewal renewal of his licence in accordance with this Act

and the regulations, the Director shall renew the licence.

Refusal to renew, suspension or cancellation

- 6b. Subject to section 7a, the Director may refuse to renew or may revoke or suspend a licence if the licensee,
 - (a) has contravened this Act or the regulations;
 - (b) is in breach of a condition of the licence;
 - (c) is found to be imcompetent or grossly negligent;
 - (d) is found to have fraudulently misrepresented his services in performing an extermination or in carrying on the business of extermination.

1967, c. 74, ss. 7a-7c (1970, c. 104, s. 2), re-enacted; ss. 7d-7g (1970, c. 104, s. 2), repealed

(3) Sections 7a, 7b, 7c, 7d, 7e, 7f and 7g of The Pesticides Act, 1967, as enacted by section 2 of The Pesticides Amendment Act, 1970, are repealed and the following substituted therefor:

Proposal to suspend, etc.

7a.—(1) Where the Director proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Board and he may so require such a hearing.

Powers of Director where no hearing (3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of Board where hearing (4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

- (5) The Director may serve notice under subsection 1 Service personally or by registered mail addressed to the applicant or licensee at his address last known to the Director and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the Board to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
- (6) The Board may extend the time for the giving of notice Extension of time for requiring a hearing by an applicant or licensee requiring hearing under subsection 2, either before or after expiration of such time, where it is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

(7) Where, within the time prescribed therefor or, if no Continuation of licence time is prescribed, before expiry of his licence, a pending renewal licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.
- 7b.—(1) The Director, the applicant or licensee who has Parties required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under section 7a.
- (2) Notice of a hearing under section 7a shall afford to hearing the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence (3) An applicant or licensee who is a party to proceedings under section 7a shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc. (4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

1971, c. . . .

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence (8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to court

7c.—(1) Any party to proceedings before the Board may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Record to be filed in court (2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Board's record, shall constitute the record in the appeal.

- (3) The Minister is entitled to be heard by counsel or Minister entitled to otherwise upon the argument of an appeal under be heard this section
- (4) An appeal under this section may be made on Powers of court on questions of law or fact or both and the court may appeal affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Director to take any action which the Board may direct him to take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the Director or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

- (4) Section 7h of The Pesticides Act, 1967, as enacted by 1967, c. 74, section 2 of The Pesticides Amendment Act, 1970, is amended (1970, c. 104, by adding thereto the following subsection: amended
 - (2) Subsection 1 does not, by reason of subsections 2 and Crown not 4 of section 5 of The Proceedings Against the Crown liability Act, 1962-63, relieve the Crown of liability in respect 1962-63, c. 109 of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

- (5) Section 8 of The Pesticides Act, 1967 is amended by 1967, c. 74, inserting after "designate" in the first line "in writing".
- (6) Section 9 of The Pesticides Act, 1967 is amended by 1967, c. 74, inserting after "regulations" in the first and second lines amended "upon the production of his designation as an inspector".
- (7) Section 10 of *The Pesticides Act*, 1967 is repealed and the 1967, c. 74, following substituted therefor: re-enacted
 - 10. Where an inspector has reasonable grounds for order for termination believing that an extermination is or may be of exterminadangerous to health, he may order that the extermination be terminated.
- (8) Subsection 3 of section 12 of The Pesticides Act, 1967 is \$.12, repealed and the following substituted therefor: re-enacted

Disposal of appeal

(3) The designated officer who hears the appeal under this section may after a hearing, to which the inspector making the order and the appellant shall be parties, vary, rescind or confirm the order of the inspector.

Effect of order pending disposal of appeal (4) Notwithstanding that an appeal has been taken under this section from an order of an inspector, the order of the inspector is effective until confirmed, varied or rescinded on the appeal.

1967, c. 74, s. 13, amended

- (9) Section 13 of *The Pesticides Act*, 1967 is amended by adding thereto the following clauses:
 - (pa) providing for the remuneration and expenses of members of the Pesticides Licence Review Board;
 - (pb) prescribing procedure for the issue or renewal of licences.

1967, c. 74, s. 13, cl. y, repealed

(10) Clause y of the said section 13 is repealed.

R.S.O. 1960, c. 297, s. 1, amended

- **68.**—(1) Section 1 of *The Plant Diseases Act*, as amended by section 1 of *The Plant Diseases Amendment Act*, 1966, is further amended by relettering clause a as clause aa and by adding thereto the following clauses:
 - (a) "Board" means the Plant Diseases Licence Review Board established by this Act;
 - (ca) "licence" means a licence under this Act.

R.S.O. 1960, c. 297, s. 3, re-enacted

(2) Section 3 of *The Plant Diseases Act* is repealed and the following substituted therefor:

Nursery licence required

3.—(1) No person shall operate a nursery without a licence therefor from the Director.

Dealer licence required (2) No person, other than a person licensed to operate a nursery, shall be a dealer in nursery stock without a licence therefor from the Director.

R.S.O. 1960, c. 297, amended (3) The Plant Diseases Act is amended by adding thereto the following sections:

Licence, issue 4a.—(1) The Director shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed

Section 68. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63*, and are explained in the explanatory note to section 9 of this Bill.



fee unless, after a hearing, he is of opinion that the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

- (2) Subject to section 4b, the Director shall renew a Renewal licence on application by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 4b.—(1) The Director may refuse to renew or may sus-Refusal to pend or revoke a licence if, after a hearing, he is of suspension or opinion that the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction in connection with his business of operating a nursery or dealing in nursery stock, to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating a nursery or dealing in nursery stock and such contravention warrants such refusal to renew or suspension or revocation of the licence.
- (2) Where, within the time prescribed therefor or, if no continuation of licence time is prescribed, before expiry of his licence, a pending licensee has applied for a renewal of his licence and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

4c.—(1) Notice of a hearing by the Director under section Notice of 4a or section 4b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

- (2) An applicant or licensee who is a party to pro-Examination ceedings under section 4a or 4b shall be afforded an mentary opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 4d. Where the Director has refused to issue or renew or Variation has suspended or revoked a licence pursuant to a by Director hearing, he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but

the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Review Board established 4e.—(1) A board to be known as the "Plant Diseases Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

Term of

(2) A member of the Board shall hold office for not more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Remunera-

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to Board 4f.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.

Extension of time for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1 either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board (3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending disposal Director, unless the Director otherwise directs, the of appeal decision of the Director is effective until the appeal is disposed of.
- 4g.—(1) The Director, the appellant and such other Parties persons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members after a hearing shall not have taken part prior to decision not the hearing in any investigation or consideration of taken part in the subject-matter of the hearing and shall not investigation, communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.
- (3) The oral evidence taken before the Board at a hearing Recording shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, ^{1971, c. . . . 1971.}
- (5) No member of the Board shall participate in a Only decision of the Board pursuant to a hearing unless he at hearing was present throughout the hearing and heard the in decision evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 4h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard by counsel or Minister otherwise upon the argument of an appeal under this be heard section.

Record to be filed in court

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Director or the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 297, s. 6, subs. 1, amended (4) Subsection 1 of section 6 of *The Plant Diseases Act* is amended by adding at the commencement thereof "Subject to subsection 1a".

R.S.O. 1960, c. 297, s. 6, amended (5) The said section 6, as amended by section 3 of *The Plant Diseases Amendment Act*, 1966, is further amended by adding thereto the following subsection:

Power to enter dwelling R.S.O. 1960, c. 387 (1a) Except under the authority of a warrant under section 14 of *The Summary Convictions Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant.

R.S.O. 1960, c. 297, s. 8, subs. 2, re-enacted

(6) Subsection 2 of section 8 of *The Plant Diseases Act* is repealed and the following substituted therefor:

Powers of Provincial Entomologist on appeal

(2) Upon receipt of a notice of appeal, the Provincial Entomologist shall, after a hearing, confirm, revoke or modify the order appealed against and may make such order as the inspector might have made and the appellant shall carry out such order as is given by the Provincial Entomologist.

Parties

(3) The appellant, the inspector who made the decision and such other persons as the Provincial Entomologist may specify are parties to proceedings before the Provincial Entomologist under subsection 2.



Section 69. The Act presently specifies grounds for refusing to issue or renew or for suspension or revocation of licences and establishes a Licence Review Board. The amendments now proposed are procedural and are explained in the explanatory note to the amendments to *The Artificial Insemination of Cattle Act, 1962-63* in section 9 of the Bill. Provisions on matters now covered by *The Statutory Powers Procedure Act, 1971* are repealed.

- (4) An appeal under this section may be made in writing How appeal or orally or by telephone to the Provincial Entomologist, but the Provincial Entomologist may require the grounds for appeal to be specified in writing before the hearing.
- **69.**—(1) Section 1 of *The Pregnant Mare Urine Farms* ¹⁹⁶⁸⁻⁶⁹, c. 97, s. 1, Act, 1968-69 is amended by adding thereto the following ^{amended} clause:
 - (da) "licence" means a licence under this Act,
- (2) Subsections 3, 4, 5, 6 and 7 of section 4 of The c. 97, s. 4, Pregnant Mare Urine Farms Act, 1968-69 are repealed and the subss. 3-7, following substituted therefor:
 - (3) Where the Director is of the opinion that an Refusal to applicant for a licence as an operator of a P.M.U. farm does not comply with clauses *a* and *b* of subsection 2 of section 3, he may, after a hearing, refuse to issue the licence.
 - (4) Subject to subsection 5, the Director shall renew Renewal a licence, on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - (5) Where the Director is of the opinion, in the case Refusal to of a licensee, that clause a or b of subsection 3 of suspension or section 3 applies, he may, after a hearing, refuse revocation to renew or may suspend or revoke the licence.
 - (6) Notwithstanding subsection 5, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of, or the prevention of cruelty or maltreatment to, or neglect of any animal and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.
 - (7) Subject to subsection 6, where, within the time Continuation prescribed therefor or, if no time is prescribed, pending before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee

and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

1968-69, c. 97, ss. 5-9, re-enacted; ss. 10, 11, 13, repealed (3) Sections 5, 6, 7, 8, 9, 10, 11 and 13 of *The Pregnant Mare Urine Farms Act*, 1968-69 are repealed and the following substituted therefor:

Notice of hearing 5.—(1) The notice of a hearing by the Director under section 4 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence (2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by Director 6. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Appeal to Board 7.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director, appeal to the Board.

Extension of time for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1 either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

- (3) Where an applicant or licensee appeals to the Powers of Board on Board under this section, the Board shall hear appeal the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.
- (4) Notwithstanding that an applicant or licensee has Effect of decision of appealed under this section from a decision of the Director Director, unless the Director otherwise directs, the disposal of decision of the Director is effective until the appeal appeal is disposed of.
 - 8.—(1) The Director, the appellant and such other Parties persons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members after a hearing shall not have taken part prior to decision not to have the hearing in any investigation or consideration of taken part in the subject-matter of the hearing and shall not etc. communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Board at a Recording of evidence hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Pro-1971, c. ... cedure Act, 1971.
- (5) No member of the Board shall participate in a Only decision of the Board pursuant to a hearing unless at hearing he was present throughout the hearing and heard in decision the evidence and argument of the parties and,

except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Appeal to court 9.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard (2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to be filed in court (3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Board or direct the Director to do any act the Director is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section, from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 312, s. 1, re-enacted **70.**—(1) Section 1 of *The Provincial Auctioneers Act* is repealed and the following substituted therefor:

Interpretation

- 1. In this Act,
 - (a) "Board" means the Provincial Auctioneers Licence Review Board established by this Act;
 - (b) "Commissioner" means the Live Stock Commissioner;
 - (c) "licence" means a licence under this Act.

Licence,

1a.—(1) The Commissioner shall issue a licence to sell pure-bred live stock only, by public auction in Ontario, to a person who makes application therefor and pays the prescribed fee unless, after a hearing, he is of opinion that,

Section 70. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63*, and are explained in the explanatory note to section 9 of this Bill.



- (a) the applicant is not competent or does not have sufficient experience with and knowledge of pure-bred live stock to conduct public auctions of such live stock; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he may not engage in such business in accordance with law and with honesty and integrity.
- (2) Any person who resides in Ontario shall pay a fee of Fee \$50, and any person who does not reside in Ontario shall pay a fee of \$100, for a licence.
- 1b.—(1) The Commissioner may revoke a licence if, Revocation after a hearing, he is of opinion that the licensee or any person under his control or direction or associated with him in connection with his operations as a licensee has not carried on his business as an auctioneer in accordance with law and with honesty and integrity.
- (2) The Commissioner, by notice to a licensee and with-Suspension out a hearing, may suspend the licensee's licence where in the Commissioner's opinion it is necessary to do so for the immediate protection of the interests of persons dealing with the licensee and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether the licence should be revoked under this Act.
- 1c.—(1) Notice of a hearing by the Commissioner Notice of under section 1a or section 1b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (2) An applicant or licensee who is a party to proceedings Examination in which the Commissioner holds a hearing shall mentary be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 1d. Where the Commissioner has refused to issue or has Variation revoked a licence pursuant to a hearing he may at by Comany time of his own motion or on the application of missioner

the person who was the applicant or licensee, vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act.

Review Board established 1e.—(1) A board to be known as the "Provincial Auctioneers Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

Term of office

(2) A member of the Board shall hold office for not more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Remunera-

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to Board 1f.—(1) Where the Commissioner refuses to issue or revokes a licence, the applicant or licensee may, by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner, appeal to the Board.

Extension of time for appeal (2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board (3) Where an applicant or licensee appeals to the Board under this section the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued or revoked and may, after the hearing, confirm or alter the decision

of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of pending disposal of the Commissioner, unless the Commissioner otherwise appeal directs, the decision of the Commissioner is effective until the appeal is disposed of.
- 1g.—(1) The Commissioner, the appellant and such Parties other persons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members making after a hearing shall not have taken part prior to the decision not to have hearing in any investigation or consideration of the taken part in subject-matter of the hearing and shall not communi- etc. cate directly or indirectly in relation to the subjectmatter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Board at a Recording of evidence hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure 1971, c. ... Act. 1971.
- (5) No member of the Board shall participate $in_{members}^{Only}$ a decision of the Board pursuant to a hearing who at hearing to participate was not present throughout the hearing and heard in decision the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 1h.—(1) Any party to the hearing before the Board Appeal to court may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard (2) The Minister is entitled to appear, by counsel or otherwise, upon the argument of an appeal under this section.

Records to be filed in court (3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, constitutes the record on the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 312, s. 4, repealed (2) Section 4 of The Provincial Auctioneers Act is repealed.

1961-62, c. 111, s. 18, subs. 4, re-enacted **71.**—(1) Subsection 4 of section 18 of *The Provincial Land Tax Act, 1961-62* is repealed and the following substituted therefor:

Assessment by judge final

(4) Subject to subsections 5 and 6, the assessment as determined by the judge is final and binding and is not open to question or dispute in any action or proceeding or otherwise.

Stated case

(5) The judge, upon request of the complainant or the collector within thirty days after the determination of the assessment by him, shall state a case in writing to the Supreme Court upon any question of law arising in the assessment.

Powers of court (6) Where a case is stated to the Supreme Court under this section, the court shall hear the case and may vary or annul the assessment or may refer it back to the judge for re-assessment in accordance with the judgment of the court.

1961-62, c. 111, s. 38, cl. a, repealed (2) Clause g of section 38 of The Provincial Land Tax Act, repealed (1961-62 is repealed.

Section 71. A judge hearing an assessment appeal is required, if requested, to state a case to the Divisional Court upon any question of law arising in the assessment.

SECTION 72.

- 1. The amendments are concerned mainly with transferring to the Act important provisions governing the following matters now largely contained in the regulations:
 - (a) the issue, transfer, review, expiry, suspension or cancellation of licences:
 - (b) the rights and responsibilities of licensees;
 - (c) the tolls for services under operating licences;
 - (d) statutory terms and conditions of bills of lading; and
 - (e) the stoppage and search of vehicles and entry and inspection of books, records and premises.
- 2. Rules or standards are stated or clarified to govern the making of decisions under the Act.
- 3. The Minister exercises the powers of decision under the Act since they are primarily policy decisions. They are exercised only after a hearing and a report by the Ontario Highway Transport Board which is required to be considered by the Minister before making his decision. The resultant procedure is a compromise between recommended procedure for judicial powers and for administrative powers. The need for compromise is recognized in the McRuer Report (pp. 130, 131).

The proposed amendments to this Act should be read with the proposed amendments to *The Ontario Highway Transport Board Act* in section 63 which govern the procedure and course to be followed by the Ontario Highway Transport Board in conducting hearings and proceedings under this Act.

72.—(1) Section 1 of The Public Commercial Vehicles Act, R.S.O. 1960, c. 319, s. 1, as amended by section 1 of The Public Commercial Vehicles amended Amendment Act, 1961-62 and section 1 of The Public Commercial Vehicles Amendment Act, 1968, is further amended by adding thereto the following clauses:

(fa) "officer of the Department" means an officer of the Department designated, in writing, by the Minister to assist in the enforcement of this Act;

(ha) "prescribed" means prescribed by the regulations.

(2) Subsection 3 of section 2 of *The Public Commercial* R.S.O. 1960, c. 319, s. 2, subs. 3, repealed. Vehicles Act is repealed.

(3) Section 4 of The Public Commercial Vehicles Act, as R.S.O. 1960, amended by section 4 of The Public Commercial Vehicles re-enacted Amendment Act, 1961-62 and section 4 of The Public Commercial Vehicles Amendment Act, 1968, is repealed and the following substituted therefor:

4.—(1) The Minister may issue an operating licence, Operating licence, licence,

- (a) for the transportation, other than by a tank truck vehicle, of,
 - (i) sand, gravel, earth, crushed or uncut rock and stone, slag and rubble, or
 - (ii) salt, calcium chloride, a mixture of sand and salt, and asphalt mixes directly to highway construction or maintenance sites or to stock piles for further use on highway construction or maintenance sites; or
- (b) in any other case in accordance with a certificate of necessity and convenience issued by the Board under section 5.
- (2) An operating licence authorizes the licensee to Rights conduct upon a highway by means of a public licence commercial vehicle the business of transportation of goods in accordance with this Act and the regulations and the terms and conditions of the licence.
- (3) The holder of an operating licence shall not dis-Discontinucontinue any transportation service authorized under transportation his licence until after he has given the Minister service ten days written notice of his intention to do so.

R.S.O. 1960, c. 319, s. 5 (1961-62, c. 114, s. 6), re-enacted (4) Section 4a of The Public Commercial Vehicles Act, as enacted by section 5 of The Public Commercial Vehicles Amendment Act, 1961-62, is repealed.

R.S.O. 1960, c. 319, s. 5 (1961-62, c. 114, s. 6), re-enacted (5) Section 5 of *The Public Commercial Vehicles Act*, as re-enacted by section 6 of *The Public Commercial Vehicles Amendment Act*, 1961-62, is repealed and the following substituted therefor:

Approval of Board

R.S.O. 1960,

c. 273

5.—(1) Except under clause a of subsection 1 of section 4, the Minister shall not issue an operating licence to any person unless the Board, upon the application of that person in the prescribed form has, after a hearing of the application as required by The Ontario Highway Transport Board Act, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister

Certificate

- (2) The Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,
 - (a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence; or
 - (b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate.

R.S.O. 1960, c. 319, ss. 6-10, re-enacted (6) Sections 6, 7, 8, 9 and 10 of *The Public Commercial Vehicles Act* are repealed and the following substituted therefor:

Transfer of licence

6.—(1) No operating licence shall be transferred without the approval of the Minister, in writing, obtained on application in the prescribed form and payment of the prescribed fee.

Reference to Board (2) The Minister shall refer an application for approval of the transfer of an operating licence to the Board, and the Board shall hold a hearing and shall report to the Minister whether or not the public necessity and convenience served by the transportation service carried on under the licence will be prejudiced by the transfer of the licence.

- (3) The Minister, the proposed transferor and transferee Parties and such other persons as the Board may specify are parties to the proceedings under this section.
- (4) The Minister shall consider a report made by the Decision of Minister Board to him under this section and may thereafter approve or refuse to approve the transfer and the Minister shall give reasons for his decision to the other parties to the proceedings.
- (5) The Minister may require the directors of a corpora- Issue or tion that is the holder of an operating licence to report shares of to the Board any issue or transfer of shares of its capital stock and where the Board finds, after a hearing, that the number of shares so issued or transferred affects the de facto control of the operations of the corporation such issue or transfer shall be deemed to constitute a transfer of all operating licences held by such corporation and unless the transfer is approved, such operating licences shall terminate.

7. The Minister may at any time refer an operating Review of licence to the Board with a recommendation that the licence terms and conditions of the licence be reviewed having regard to the requirements of public necessity and convenience and the Board shall, after a hearing of the reference as required by The Ontario Highway R.S.O. 1960, Transport Board Act, report thereon to the Minister, and the Minister may confirm, amend or cancel the terms and conditions of the licence and shall give reasons for his decision to the licensee.

- 8.—(1) An operating licence expires on the 1st day of Expiry of licence July in each year or on the expiry of the vehicle licences for the vehicles operated pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired vehicle licences for such vehicles for the period immediately following such date or such expiry, as the case may be.
- (2) Where the holder of an operating licence has acquired Operating licence vehicle licences in accordance with subsection 1, his renewed on acquirement operating licence is deemed to be renewed for the of vehicle licences are licences. period for which the vehicle licences are issued.
 - 9. Subject to section 10j, the Minister may suspend lation of or cancel an operating licence.

Suspension operating

- (a) where the licensee fails to begin to provide transportation services in accordance with the licence within thirty days after the issue of the licence, or within such further period as is specified in the licence;
- (b) where the licensee fails for a continuous period of thirty days to provide transportation services in accordance with the licence;
- (c) where the licensee is financially incapable of providing or continuing to provide transportation services in accordance with this Act and the regulations or the terms and conditions of the licence or of meeting his financial responsibilities to persons using such services; or
- (d) where the licensee or any person under his control and direction contravenes this Act or The Highway Traffic Act or the regulations hereunder or thereunder or the terms and conditions of the licence and such contravention affords reasonable grounds for believing that the transportation services required by the licence will not be carried on in accordance

with the requirements of such Acts or regu-

Vehicle licence required

R.S.O. 1960,

10. Notwithstanding the provisions of any private Act, no person shall operate a public commercial vehicle unless the vehicle is licensed as a public commercial vehicle under this Act.

lations or such terms and conditions.

R.S.O. 1960, c. 319, s. 10*a*, (1968, c. 105, s. 5), re-enacted (7) Section 10a of The Public Commercial Vehicles Act, as enacted by section 5 of The Public Commercial Vehicles Amendment Act, 1968, is repealed and the following substituted therefor:

Issue to holder of operating licence 10a.—(1) Subject to subsection 2 and section 10d, the holder of an operating licence is entitled, upon application to the Minister in the prescribed form and payment of the prescribed fee, to be issued by the Minister vehicle licences for public commercial vehicles for operation pursuant to his operating licence.

Idem

 No vehicle licence shall be issued for a public commercial vehicle except, (a) to the holder of an operating licence who is registered as the owner of the vehicle under *The Highway Traffic Act*; or

R.S.O. 1960,

- (b) to the holder of an operating licence who has entered into an agreement for the lease of the public commercial vehicle in accordance with this Act and the regulations.
- 10b.—(1) A vehicle licence authorizes the holder to Rights operate the vehicle for which it is issued as a public vehicle commercial vehicle in providing the transportation designated in his operating licence.
 - (2) A vehicle licence expires at the end of the last day Expiry of of the period for which the licence was issued.
 - (3) Where a vehicle for which a vehicle licence has been Transfer issued is sold to the holder of an operating licence authorizing the operation of that class of vehicle, such holder is entitled to a transfer by the Minister of the vehicle licence and licence plate for the vehicle, but no vehicle licence may be transferred from the person to whom it was issued to another person in any other case.
 - (4) Where the holder of a vehicle licence applies to Replacement replace the vehicle for which the licence was issued vehicle with another vehicle for which no vehicle licence is in effect, the Minister may permit the vehicle licence and licence plate to be transferred to the substituted vehicle upon payment of the prescribed transfer fee and the amount, if any, by which the fee prescribed for a vehicle licence for the substituted vehicle would exceed the fee prescribed for a vehicle licence for the replaced vehicle.
- 10c.—(1) The Minister may in a vehicle licence fix the Tonnage tonnage that may be carried in the vehicle pursuant to the licence and no vehicle shall at any time carry more tonnage than is fixed by the licence.
- (2) Every public commercial vehicle operating on a Licence highway shall have attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year.

Refusal to issue or cancellation of vehicle licence

R.S.O. 1960,

10d. Subject to section 10j, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, eligible to be issued a licence under subsection 2 of section 10a or if the vehicle does not comply with the requirements of this Act or The Highway Traffic Act or the regulations hereunder or thereunder.

Freight forwarder's licence required 10e.—(1) No person shall carry on business as a freight forwarder unless he is the holder of a freight forwarder's licence under this Act.

Restrictions on transportation of goods beyond urban zone

(2) No holder of a freight forwarder's licence shall transport goods upon a highway beyond an urban zone except in a vehicle operated by the holder of an operating licence issued pursuant to this Act, the terms of which operating licence authorize the holder to perform the transportation.

Issue to holder of operating licence prohibited

(3) No freight forwarder's licence shall be issued to the holder of an operating licence.

Issue of freight forwarder's

10f.—(1) The Minister may,

- (a) upon application in the prescribed form and payment of the prescribed fee; and
- (b) upon the filing by the applicant with the Minister of a policy of insurance or bond in a form and amount that affords adequate security for the protection of the public in the event of damage or loss to goods undertaken to be transported by the applicant,

issue a freight forwarder's licence to the applicant.

Terms and conditions

(2) The Minister may, in a licence issued to a freight forwarder under this section, prescribe terms and conditions in the licence to govern the carrying on of the business of freight forwarder under the licence.

Applicant may require hearing by Board 10g. Where the applicant for a freight forwarder's licence is dissatisfied with the terms and conditions prescribed by the Minister in the licence, the applicant may, by written notice to the Minister and the Board, within fifteen days after receiving the licence, require

a hearing by the Board and section 10j applies to the proceedings as if such notice were a notice requiring a hearing under that section.

- 10h. A freight forwarder's licence expires on the 31st Expiry of day of December in the year in which it was issued.
- 10i. Subject to section 10j, the Minister may suspend Suspension and cancel or cancel a freight forwarder's licence,
 - (a) where the licensee fails to maintain in force a policy of insurance or bond that meets the requirements of clause b of subsection 1 of section 10f; or
 - (b) where the licensee or any person under his control and direction contravenes this Act or the regulations or the terms and conditions of the licence and such contravention or failure affords reasonable grounds for believing that the business of a freight forwarder will not be carried on in accordance with the requirements of this Act and the regulations and the terms and conditions of the licence.
- 10j.—(1) Where the Minister proposes,

Notice of proposal to cancel, etc., hearing

- (a) to suspend or cancel an operating licence under section 9;
- (b) to refuse to issue or to cancel a vehicle licence under section 10d; or
- (c) to refuse to issue a freight forwarder's licence under section 10 f or to suspend or cancel a freight forwarder's licence under section 10 i,

he shall cause notice of his proposal together with written reasons therefor to be served on the applicant or licensee informing him that he has a right to a hearing by the Board if he mails or delivers, within fifteen days after service on him of the notice from the Minister, notice in writing requiring a hearing to the Minister and the Board and the applicant or licensee may so require such a hearing.

(2) Where an applicant or licensee,

Where hearing required

 (a) does not give notice in accordance with subsec-required tion 1 requiring a hearing by the Board, the Minister may forthwith refuse to issue or may suspend or cancel the licence; or (b) gives notice in accordance with subsection 1 requiring a hearing by the Board, the Minister shall refer the matter to the Board for a hearing.

Service of notice

(3) The Minister may cause a notice under subsection 1 to be served personally or by registered mail addressed to the applicant or licensee at his address last known to the Minister and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for giving notice by applicant (4) The Board, on application of an applicant or licensee, may extend the time for giving notice requiring a hearing under subsection 1 either before or after expiration of the time fixed therein where the Board is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as the Board considers proper consequent upon the extension.

Parties to hearing (5) The Minister, the applicant or licensee and such other persons as the Board may specify are parties to a hearing under this section.

Notice of

(6) Notice of a hearing under this section shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of his licence.

Examination of documentary evidence (7) The Minister shall afford to the applicant or licensee, or his representative, an opportunity to examine before the hearing any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.

Report to Minister (8) The Board shall, after a hearing under this section, make a report to the Minister, which shall set out its findings of fact and conclusions of law and its recommendations as to the issue, suspension or cancellation of the licence to which it relates.

- (9) After considering a report of the Board under this Decision of section, the Minister may carry out the proposal or refrain from carrying out the proposal to which it relates and shall give reasons for his decision to the applicant or licensee.
- 10k.—(1) Except as provided by the regulations, each Tariff of holder of an operating licence or of a freight forwarder's licence shall, on payment of the prescribed fee, file with the Board a tariff of tolls showing all the rates or charges for the transportation of goods to and from points in respect of which the transportation is provided or offered by the licensee or by arrangement with any other licensee or any other carrier.
 - (2) No holder of an operating licence or freight for Charging warder's licence shall charge a toll that is not contained in, and in accordance with, the tariff filed by him under subsection 1.
- 10l. A tariff of tolls shall be filed in a form prescribed Formand publication by the Board and published and maintained available of tariff to the public.
- 10m.—(1) A licensee who has filed a tariff of tolls with the Amendment Board may file with the Board an amendment to the tariff but, subject to subsection 2, such amendment shall not become effective until the expiry of thirty days from the date the amendment was filed.
 - (2) The Board, upon the application of a licensee who Effective has filed an amendment to his tariff of tolls under this section, may fix the effective date of the amendment on a specified date prior to the expiry of thirty days from the date the amendment was filed.
- 10n. A tariff of tolls filed under section 10k and amend- Expiry of ments thereto expires two years from the date upon which the tariff was filed under section 10k.
- 10o.—(1) Except as provided in the regulations, every Bill of holder of an operating licence or of a freight for issue of warder's licence shall issue a bill of lading to the person delivering or releasing goods to the licensee for transportation for compensation.
 - (2) A bill of lading shall contain such information as Contents may be prescribed and shall include an acknowledgment of receipt by the carrier or the freight forwarder

of the goods therein described and an undertaking to carry such goods for delivery to the consignee or the person entitled to receive the goods and shall be signed by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor.

Statutory

(3) The conditions set out in Schedule A shall be deemed to be a part of every contract for the transportation of goods for compensation other than a contract for transportation for compensation between a freight forwarder and a shipper.

Idem

(4) The conditions set out in Schedule B shall be deemed to be a part of every contract for transportation for compensation between a freight forwarder and a shipper.

Copy of bill of lading to be carried by driver (5) Every driver operating a public commercial vehicle shall carry on each trip a copy or memorandum of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Department.

Idem

(6) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy or memorandum of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Department.

R.S.O. 1960, c. 319, amended adding thereto the following sections:

Vehicle licence, etc., to be carried by driver 13a. The vehicle licence issued for a public commercial vehicle together with a copy of the conditions set out in the operating licence under which it is operated, shall, whenever the vehicle is on a highway be carried by the driver or be kept in a readily accessible place in the vehicle and shall be produced upon the demand of a member of the Ontario Provincial Police Force or of an officer of the Department.

Examination of vehicle, etc.

13b.—(1) A member of the Ontario Provincial Police Force or an officer of the Department may at any time examine any public commercial vehicle, its contents and equipment for the purpose of ascertaining whether this Act and the regulations and the operating licence under which the vehicle is operated

are being complied with in the operation of the vehicle, and for that purpose the member or officer may require the driver or other person in charge of a public commercial vehicle to stop on a highway.

(2) Every driver or other person in charge of a public Stopping of vehicle commercial vehicle on a highway who is required by for a member of the Ontario Provincial Police Force or an officer of the Department, by signals or otherwise, to stop the vehicle for the purpose of examination. shall stop the vehicle and assist in the examination of the vehicle, its contents and equipment.

13c. An officer of the Department may at any reason-Examination able time examine all books, records and documents etc., of holder of of the holder of an operating licence relating to the operating business of operating public commercial vehicles for licence the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder.

13d. Each person employed in the administration of this Matters confidential Act, including any person making an examination under section 13c, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment or on an examination under section 13c and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (9) Clause a of section 16 of The Public Commercial Vehicles R.S.O. 1960, c. 319, s. 16, Act is repealed and the following substituted therefor:
 - (a) prescribing classes of licences and the forms of applications and licences.

(10) Clause h of the said section 16 is repealed.

R.S.O. 1960, c. 319, s. 16, cl. h, repealed

R.S.O. 1960, c. 319, s. 16, cl. *l*, re-enacted

- (11) Clause l of the said section 16 is repealed and the following substituted therefor:
 - (l) prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed by persons licensed under this Act.

R.S.O. 1960, c. 319, s. 16, cl. q, repealed

(12) Clause q of the said section 16 is repealed.

R.S.O. 1960, c. 319, amended (13) The Public Commercial Vehicles Act is amended by adding thereto the following Schedules:

SCHEDULE A

- The carrier of the goods herein described is liable for any loss thereof or damage or injury thereto, except as herein provided.
- 2. Where shipments are handled by more than one carrier, the carrier issuing the bill of lading, in addition to any other liability hereunder, is liable for any loss, damage or injury to the goods caused by or resulting from the act, neglect or default of any other carrier to whom the goods are delivered and from whom the other carrier is not by the terms of the bill of lading relieved and the onus of proving that such loss, damage or injury was not so caused and did not so result is upon the carrier issuing the bill of lading.
- 3. The carrier issuing the bill of lading is entitled to recover from any other carrier to whom the goods are delivered in the course of their conveyance to their final destination the amount of the loss, damage or injury that the carrier issuing the bill of lading may be required to pay hereunder caused by or resulting from the handling of the goods by the other carrier, if the carrier issuing the bill of lading is not relieved therefrom by the terms of the bill of lading, and if the loss, damage or injury was not caused by the act, neglect or default of the carrier issuing the bill of lading, subject to the onus set out in paragraph 2.
- 4. Nothing in paragraph 2 or 3 deprives the holder of the bill of lading or the party entitled to the goods of any remedy or right of action that he may have against the carrier issuing the bill of lading or against any other carrier.
- 5. The carrier is not liable for loss, damage or delay to any of the goods described in the bill of lading caused by an act of God, the Queen's or public enemies, riots, strikes, defect or inherent vice in the goods, the act or default of the shipper or owner, the authority of law, quarantine or differences in weights of grain, seed, live stock or other commodities caused by natural shrinkage.
- Where goods are stopped and held in transit at the request of the party entitled to request it, the goods are held at the risk of the owner.
- 7. No carrier is bound to transport the goods by any particular public commercial vehicle or in time for any particular market or otherwise than with due despatch, unless by agreement specifically endorsed on the bill of lading and signed by the parties thereto.

- 8. In the case of physical necessity, the carrier has the right to forward the goods by any conveyance or by any route between the point of shipment and the point of destination but, if the goods are forwarded by a conveyance that is not a public commercial vehicle, the liability of the carrier is the same as though the entire carriage were by public commercial vehicle.
- Subject to paragraph 10, the amount of any loss, damage or injury for which the carrier is liable, whether or not the loss, damage or injury results from negligence, shall be computed on the basis of,
 - (a) the value of the goods at the place and time of shipment including the freight and other charges if paid; or
 - (b) where a value lower than that referred to in clause a has been represented in writing by the consignor or has been agreed upon, such lower value.
- 10. Subject to paragraph 11, the amount of any loss or damage computed under clause a or b of paragraph 9 shall not exceed \$1.50 per pound unless a higher value is declared on the face of the bill of lading by the consignor.
- 11. Paragraph 10 does not apply to,
 - (a) a shipment of uncrated used household, office or store furniture; or
 - (b) where specially designed vehicles of the drop-frame type are used and equipped with pads, belts, hooks, wardrobes, and special packing containers, a shipment of,
 - (i) new uncrated furniture and fixtures that are part of the dwelling in which they are to be used,
 - (ii) new uncrated furniture and fixtures that are part of the furnishing of offices, museums, hospitals, factories and public institutions, or
 - (iii) objects of art, displays and exhibits that because of their unusual nature or value require specialized handling and the employment of pads, belts, hooks, wardrobes and special packing containers,

where such shipment is made under an operating licence authorizing such shipment.

- 12. Where it is a term or condition that the goods are carried at the risk of the consignor or owner, the condition covers only such risks as are necessarily incidental to transportation and does not relieve the carrier from liability for any loss, damage, injury or delay that may result from any negligence or omission of the carrier, its agents or employees, and the burden of proving the absence of negligence or omission is on the carrier.
- 13. The carrier is not liable for loss, damage, injury or delay to any goods carried under the bill of lading unless notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage, injury or delay is given in writing to the carrier at the point of delivery or at the point or origin within ninety days after the delivery of the goods, or, in the case of failure to make delivery, within ninety days after a reasonable time for delivery has elapsed.

- 14. Where, through no fault of the carrier, the carrier is unable to effect delivery of goods to the person entitled to receive them, the goods may,
 - (a) be kept in the warehouse of the carrier, subject to a reasonable charge for storage and to the carrier's responsibility as warehouseman only; or
 - (b) at the option of the carrier, after written notice of the carrier's intention to do so has been served on the consignor and consignee of the goods in person or by registered mail, be removed to, and stored in, a public or licensed warehouse at the expense of the owner of the goods and there held at the risk of the owner, without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges including a reasonable charge for storage.
- 15. No carrier is bound to carry any documents, specie or any articles of extraordinary value unless by a special agreement to do so and, where the nature and stipulated value of the goods is disclosed to him, the duty of obtaining such special agreement is on the carrier.
- 16. The owner or consignee of the goods shall pay the freight and all other lawful charges accruing on the goods and, if required by the carrier, shall pay them before delivery and, if the goods shipped are not those described in the bill of lading, the freight charges shall be paid upon the goods actually shipped with any additional penalties due.
- 17. Every person, whether as principal or agent, shipping explosives or dangerous goods without previous full written disclosure to the carrier of their nature, shall indemnify the carrier against all loss, damage or injury caused thereby, and the goods may be warehoused at the risk and expense of the owner of the goods.
- Any alteration, addition or erasure in a bill of lading shall be signed or initialled by the parties thereto.

SCHEDULE B

- The freight forwarder of the goods herein described is liable for any loss thereof or damage or injury thereto, except as herein provided.
- 2. The freight forwarder is not liable for loss, damage or delay to any of the goods described in the bill of lading caused by an act of God, the Queen's or public enemies, riots, strikes, defect or inherent vice in the goods, the act or default of the shipper or owner, the authority of law, quarantine or differences in weights of grain, seed, live stock or other commodities caused by natural shrinkage.
- No freight forwarder is bound to transport the goods in time for any particular market or otherwise than with due despatch, unless by agreement specifically endorsed on the bill of lading and signed by the parties thereto.
- The amount of any loss, damage or injury for which the freight forwarder is liable, whether or not the loss, damage or injury results from negligence, shall be computed on the basis of,
 - (a) the value of the goods at the place and time of shipment including the freight and other charges if paid; or



Section 73. A hearing is required before refusal of a licence.

SECTION 74.

- 1. Reference to The Public Inquiries Act is amended to refer to Part II of The Public Inquiries Act, 1971.
- 2. Information acquired by any person under the Act is required to be kept confidential.
 - 3. The Public Trustee is required to make an annual report.

- (b) where a value lower than that referred to in clause a has been represented in writing by the consignor or has been agreed upon, such lower value.
- 5. Where it is a term or condition that the goods are carried at the risk of the consignor or owner, the condition covers only such risks as are necessarily incidental to transportation and does not relieve the freight forwarder from liability for any loss, damage or injury or delay that may result from any negligence or omission of the freight forwarder, its agents or employees, and the burden of proving the absence of negligence or omission is on the freight forwarder.
- 6. The freight forwarder is not liable for loss, damage, injury or delay to any goods carried under the bill of lading unless notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage, injury or delay is given in writing to the freight forwarder at the point of delivery or at the point of origin within ninety days after the delivery of the goods, or, in the case of failure to make delivery, within ninety days after a reasonable time for delivery has elapsed.
- 7. No freight forwarder is bound to carry any documents, specie or any articles of extraordinary value unless by a special agreement to do so and, where the nature and stipulated value of the goods is disclosed to him, the duty of obtaining such special agreement is on the freight forwarder.
- 8. Every person, whether as principal or agent, shipping explosives or dangerous goods without previous full written disclosure to the freight forwarder of their nature, shall indemnify the freight forwarder against all loss, damage or injury caused thereby, and the goods may be warehoused at the risk and expense of the owner of the goods.
- Any alteration, addition or erasure in a bill of lading shall be signed or initialed by the parties thereto.
- **73.** Section 2 of *The Public Halls Act* is amended by adding $^{R.S.O.\ 1960}_{c.\ 320,\ s.\ 2,}$ thereto the following subsection:
 - (2) No application for a licence for a public hall for Hearing use as a place of public assembly shall be refused until after the applicant has been afforded a hearing by the licence issuing authority.
- **74.**—(1) Sections 5 and 6 of *The Public Trustee Act* are R.S.O. 1960, c. 334, ss. 5, 6, repealed and the following substituted therefor:
 - 5. The Public Trustee shall discharge the duties im-Duties posed upon him by The Crown Administration of R.S.O. 1960, Estates Act, The Charities Accounting Act and any other Act of the Legislature or by the Lieutenant Governor in Council, and he shall also make inquiries from time to time as to property that has escheated, or become forfeited for any cause to the Crown, or in which the Crown in right of Ontario may be interested.

Powers of inquiry

1971, c. . . .

6. For the purposes of an inquiry under section 5, the Public Trustee has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1960, c. 334, s. 14, cl. *h*, repealed

(2) Clause h of section 14 of The Public Trustee Act is repealed.

R.S.O. 1960, c. 334, amended

(3) The Public Trustee Act is amended by adding thereto the following sections:

Matters confidential

18. Every person employed in the performance of the duties imposed upon the Public Trustee by this or any other Act or by the Lieutenant Governor in Council shall preserve secrecy with respect to all matters that come to his knowledge in the course of such employment and shall not communicate any such matters to any person other than to a person legally entitled thereto or to his legal counsel except as may be required in connection with the administration of this Act and the regulations under this Act or any proceedings thereunder.

Report

19. The Public Trustee shall, at the end of each fiscal year, prepare a report on his operations and submit it to the Minister of Justice and Attorney General who shall submit the report to the Lieutenant Governor in Council and then lay the report before the Assembly, if it is in session, or, if not, at the next ensuing session.

R.S.O. 1960, c. 337, s. 1, amended

- **75.**—(1) Section 1 of *The Public Vehicles Act* is amended by adding thereto the following clauses:
 - (ea) "officer of the Department" means an officer of the Department designated, in writing, by the Minister to assist in the enforcement of this Act;
 - (fa) "prescribed" means prescribed by the regulations.

R.S.O. 1960, c. 337, s. 2, subs. 2, repealed

(2) Subsection 2 of section 2 of The Public Vehicles Act is repealed.

R.S.O. 1960, c. 337, ss. 3-6, re-enacted; s. 7, repealed

(3) Sections 3 to 7 of *The Public Vehicles Act* are repealed and the following substituted therefor:

SECTION 75.

- 1. The amendments are concerned mainly with transferring to the Act important provisions concerning the following matters now largely contained in the regulations:
 - (a) the issue, transfer, review, expiry, suspension or cancellation of licences;
 - (b) the rights and responsibilities of licensees;
 - (c) the fixing of tolls for services under operating licences;
 - (d) fees for operating licences; and
 - (e) the stoppage and search of vehicles and entry and inspection of books, records and premises.
- 2. Rules or standards are stated or clarified to govern the making of decisions under the Act.
- 3. The Minister exercises the powers of decision under the Act since they are primarily policy decisions. They are exercised only after a hearing and a report by the Ontario Highway Transport Board which is required to be considered by the Minister before making his decision. The resultant procedure is a compromise between the recommended procedure for judicial powers and for administrative powers. The need for compromise is recognized in the McRuer Report (see pp. 130, 131).

The proposed amendments to this Act should be read with the proposed amendments to *The Ontario Highway Transport Board Act* in section 63 which govern the procedure and course to be followed by the Ontario Highway Transport Board in conducting hearings and proceedings under this Act.



- 3.—(1) The Minister may issue an operating licence in Operating accordance with a certificate of necessity and issue convenience issued by the Board under section 4.
- (2) An operating licence authorizes the licensee to conduct Rights upon a highway by means of a public vehicle the business of a carrier of passengers or of passengers and express freight, in accordance with this Act and the regulations and the terms and conditions of the licence.
- (3) The holder of an operating licence shall not dis-Discontinucance of continue any scheduled service authorized under scheduled his licence until after giving the Minister ten days written notice of his intention to do so.
- (4) Where the holder of an operating licence fails to Failure to provide provide a scheduled service authorized by his licence scheduled for more than twenty-four hours, he shall give,
 - (a) a written report to the Minister; and
 - (b) a notice to the public in the area affected,

indicating the cause of the failure and its probable duration.

- (5) A notice to the public under subsection 4 shall be given Notice by publication in a newspaper published in the area affected and by posting it at the scheduled stopping places on the highway in respect of which the service has not been provided.
- 4.—(1) The Minister shall not issue an operating licence Approval to any person unless the Board, upon the application of that person in the prescribed form has, after a hearing of the application as required by *The Ontario* R.S.O. 1960, *Highway Transport Board Act*, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.
- (2) The Board may, in a certificate issued by it under Certificate this section, having regard to the requirements of public necessity and convenience,
 - (a) prescribe terms and conditions to govern the transportation of passengers or of passengers and express freight by public vehicles pursuant to the licence; or

(b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public vehicles and with respect to any highway or highways or portions thereof described in the certificate.

Approval for renewal

(3) Notwithstanding subsection 1, the approval of the Board is not required for renewal of a licence unless the Minister refers the application for renewal to the Board, in which case subsection 1 applies.

Transfer of operating licence

5.—(1) No operating licence shall be transferred without the approval, in writing, of the Minister obtained on application in the prescribed form and payment of the prescribed fee.

Application for approval, hearing

(2) The Minister shall refer an application for approval of the transfer of an operating licence to the Board and the Board shall hold a hearing and shall report to the Minister whether or not the public necessity and convenience served by the transportation service carried on under the licence will be prejudiced by the transfer of the licence.

Parties

(3) The Minister, the proposed transferor and transferee and such other persons as the Board specifies are parties to the proceedings under this section.

Decision of Minister (4) The Minister shall consider a report made by the Board to him under this section and may thereafter approve or refuse to approve the transfer and the Minister shall give reasons for his decision to the other parties to the proceedings.

Issue or transfer of shares of corporation (5) The Minister may require the directors of a corporation that is the holder of an operating licence to report to the Board any issue or transfer of shares of its capital stock and where the Board finds, after a hearing, that the number of shares so issued or transferred affects the *de facto* control of the operations of the corporation such issue or transfer shall be deemed to constitute a transfer of all operating licences held by such corporation and, unless the transfer is approved, such operating licences shall terminate.

Review of terms of licence

(6) The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed, having regard to the requirements of public necessity

and convenience and the Board shall, after a hearing of the reference as required by The Ontario Highway R.S.O. 1960, Transport Board Act, report thereon to the Minister, and the Minister may confirm, amend or cancel the terms and conditions of the licence and shall give reasons for his decision to the licensee.

- 6.—(1) An operating licence expires on the 1st day of Expiry of licence July in each year unless on or before that day the licensee has applied for and acquired vehicle licences for the vehicles operated pursuant to the operating licence for the current year.
- (2) Where the holder of an operating licence has acquired Operating licence vehicle licences in accordance with subsection 1, his renewed on acquisition operating licence shall be deemed to be renewed.

of vehicle licences

- (4) The Public Vehicles Act is amended by adding thereto R.S.O. 1960, the following sections: amended
 - 9a. Subject to section 9g, the Minister may suspend or Suspension cancel an operating licence,

operating licence

- (a) where the licensee fails to begin operations as a carrier in accordance with the licence within thirty days after the issue of the licence or within such further period as is specified in the licence:
- (b) where the licensee fails for a continuous period of thirty days to carry on operations as a carrier in accordance with the licence:
- (c) where the licensee is financially incapable of providing or continuing to provide transportation services in accordance with this Act and the regulations or the terms and conditions of the licence or of meeting his financial responsibilities to persons using such services; or
- (d) where the licensee or any person under his control and direction contravenes this Act or The Highway Traffic Act or the regulations R.S.O. 1960, c. 172. hereunder or thereunder or the terms and conditions of the licence and such contravention affords reasonable grounds for believing that the business of a carrier will not be carried on pursuant to the licence in accordance with the requirements of such Acts or regulations or such terms and conditions.

Vehicle licence, required

9b. Notwithstanding the provisions of any private Act, no person shall operate a public vehicle unless the vehicle is licensed as a public vehicle under this Act.

Issue to holder of operating licence 9c.—(1) Subject to subsection 2 and section 9f; the holder of an operating licence is entitled, upon application to the Minister in the prescribed form, to be issued by the Minister vehicle licences for public vehicles for operation pursuant to his operating licence.

To registered owner only

(2) No vehicle licence shall be issued for a public vehicle except to the person registered as owner of the vehicle under *The Highway Traffic Act*.

R.S.O. 1960, c. 172

Rights under vehicle licence 9d.—(1) A vehicle licence authorizes the holder to operate the vehicle for which it is issued as a public vehicle on the highways designated in his operating licence or on charter or special trips in accordance with the regulations.

Expiry of licence

(2) A vehicle licence expires on the 31st day of March in each year.

Transfer

(3) Where a vehicle for which a vehicle licence was issued is sold to the holder of an operating licence, the Minister may transfer the vehicle licence and licence plate for the vehicle to such holder, but no vehicle licence may be transferred in any other case.

Number of passengers and tonnage of freight

9e.—(1) The Minister may, in a vehicle licence fix the number of passengers or tonnage of express freight or both, that the vehicle may carry and, subject to subsection 1 of section 16, no vehicle shall at any time carry more passengers or more tonnage than is fixed by the licence issued with respect to the vehicle.

Licence plate (2) Every public vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous place, a licence number issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year.

Refusal to issue or cancellation of vehicle licence 9f. Subject to section 9g, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, registered as owner of the vehicle under *The Highway Traffic Act* or if the vehicle does not comply with the requirements of this Act or *The Highway Traffic Act* or the regulations hereunder or thereunder.

9g.—(1) Where the Minister proposes,

Notice of proposal o cancel, etc., hearing

- (a) to suspend or cancel an operating licence under section 9a: or
- (b) to refuse to issue or to cancel a vehicle licence under section 9f.

he shall cause notice of his proposal together with written reasons therefor to be served on the applicant or licensee informing him that he has a right to a hearing by the Board if he mails or delivers, within fifteen days after service on him of the notice from the Minister, notice in writing requiring a hearing to the Minister and the Board and the applicant or licensee may so require such a hearing.

(2) Where an applicant or licensee,

hearing required or

- (a) does not give notice in accordance with sub-not required section 1 requiring a hearing by the Board, the Minister may forthwith refuse to issue or suspend or cancel his licence; or
- (b) gives notice in accordance with subsection 1 requiring a hearing by the Board, the Minister shall refer the matter to the Board for a hearing.
- (3) The Minister may cause a notice under subsection 1 Service to be served personally or by registered mail addressed to the applicant or licensee at his address last known to the Minister and, where notice is served by registered mail, the notice shall be presumed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

(4) The Board, on application of an applicant or licensee, Extension time for may extend the time for giving notice requiring a giving notice by hearing under subsection 1 either before or after applicant expiration of the time fixed therein, where the Board is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as the Board considers proper consequent upon the extension.

Parties to hearing (5) The Minister, the applicant or licensee and such other persons as the Board may specify are parties to a hearing under this section.

Notice of hearing

(6) Notice of a hearing under this section shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of his licence.

Examination of documentary evidence (7) The Minister shall afford to the applicant or licensee, or his representative, an opportunity to examine before the hearing any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.

Report to Minister (8) The Board shall, after a hearing under this section, make a report to the Minister which shall set out its findings of fact and conclusions of law and its recommendations as to the issue, suspension or cancellation of the licence to which it relates.

Decision of Minister (9) After considering a report of the Board under this section, the Minister may carry out the proposal or refrain from carrying out the proposal to which it relates and shall give reasons for his decision to the applicant or licensee.

R.S.O. 1960, c. 337, ss. 10-12,

(5) Sections 10, 11 and 12 of *The Public Vehicles Act* are repealed and the following substituted therefor:

Tolls

10.—(1) Subject to section 11, no tolls shall be charged by the licensee for services rendered pursuant to his operating licence until a tariff thereof has been filed with and approved by the Minister as being fair and reasonable, or otherwise than in accordance with such tariff.

Revised tariff of tolls (2) Subject to section 11, where a tariff of tolls has been approved by the Minister under subsection 1, the Minister may at any time revise such tariff and make such changes therein as are fair and reasonable and thereafter no tolls shall be charged except in accordance with the revised tariff.

Reference to Board 11.—(1) Before refusing to approve a tariff of tolls filed with him or before revising a tariff of tolls without the consent of the licensee who filed the tariff, the Minister shall refer the matter to the Board for a hearing and report.

- (2) Pursuant to a reference under this section, the Board Hearing shall hold a hearing to inquire whether the tariff of tolls should be approved as filed or approved with amendments or revised.
- (3) The Minister, the licensee and such other persons as Parties the Board may specify are parties to a hearing under this section.
- (4) The Board shall at the conclusion of a hearing under Report to this section make a report to the Minister, which shall set out a summary of the representations of the parties, its findings of fact and any other information that it considers relevant to determining fair and reasonable rates.
- (5) After considering the report of the Board under this Decision of section, the Minister may approve the tariff of tolls filed with him either as the tariff was filed or as amended or may revise the tariff of tolls to which the report relates and shall give written notice of his decision to the licensee stating the reasons therefor.
- 12.—(1) The holder of an operating licence shall pay to the Fees, Minister fees in accordance with this section for his operating and vehicle licences for each month during the currency of his operating licence on or before the 15th day of the next succeeding month.
- (2) The fees payable under this section are, amount of
 - (a) three cents for each one hundred passenger miles of travel, or portion thereof, over a Class A highway; and
 - (b) two cents for each one hundred passenger miles of travel, or portion thereof, over a Class B highway.
- (3) For the purposes of subsection 2, passenger miles of Passenger miles of travel shall be computed,
 - (a) in the case of scheduled trips, by multiplying,
 - (i) the seating capacity of each vehicle operated, or

(ii) the average seating capacity where two or more vehicles having different seating capacities are operated,

by the number of miles travelled in the month; and

(b) in the case of a chartered trip or a special trip as prescribed by the regulations, by multiplying the seating capacity of each vehicle used by the number of miles actually travelled on the trip each way.

Seating capacity

(4) For the purposes of subsection 3, seating capacity shall be computed by dividing by eighteen the aggregate length of inches of all seats provided for passengers in a vehicle but, where a seat is designed for the accommodation of one or two passengers only, the actual aggregate number of passenger seats shall be used.

Report where more than one vehicle operated

(5) Where more than one vehicle is operated by a licensee on a scheduled trip, the licensee shall forward to the Department on the day following the trip a report indicating the number of vehicles.

Exemptions

- (6) No fees are payable under this section for the operation of,
 - (a) vehicles licensed as school buses in accordance with the regulations; or
 - (b) public vehicles owned by non-residents of Ontario and,
 - (i) operated in Ontario on a scheduled service originating outside Ontario only within ten miles of the provincial boundary, or
 - (ii) operated in Ontario exclusively on chartered trips originating outside Ontario,

if the province or state of the non-residents grants similar exemptions and privileges for public vehicles owned by residents of Ontario. (7) In this section,

Class A and B highways

- (a) "Class A highway" means The King's Highway; and
- (b) "Class B highway" means a highway other than.
 - (i) the King's Highway,
 - (ii) a highway under the jurisdiction of The Niagara Parks Commission, and
 - (iii) a highway under the jurisdiction of the council of a city, town or village.
- (6) The Public Vehicles Act is amended by adding thereto R.S.O. 1960, c. 337. the following sections: amended
 - 22a.—(1) A member of the Ontario Provincial Police Force Examination of vehicle, or an officer of the Department may examine at any etc. reasonable time, any public vehicle, its contents and equipment.
 - (2) An officer of the Department may at any reason-Examination of the holder of an operating licence relating to the operating business of operating public vehicles for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder.

22b. Each person employed in the administration of this Matters Act, including any person making an examination under section 22a, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment or on an examination under section 22a and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

R.S.O. 1960, c. 337, s. 25, cl. *a*, re-enacted; cl. *b*, repealed

- (7) Clauses a and b of section 25 of *The Public Vehicles Act* are repealed and the following substituted therefor:
 - (a) governing the forms of applications and licences under this Act.

R.S.O. 1960, c. 337, s. 25, cls. h, n, repealed

(8) Clauses h and n of the said section 25 are repealed.

R.S.O. 1960, c. 343, s. 4, subs. 2, re-enacted **76.**—(1) Subsection 2 of section 4 of *The Railway Fire Charge Act* is repealed and the following substituted therefor:

Apportionment of charge (2) If at any time any question arises between the owner and tenant of any railway land as to the proportion in which the charge imposed by this Act is to be borne as between the owner and tenant, either the owner or the tenant may apply to the collector to fix the proportion and the decision of the collector is, unless appealed from as provided in this Act, final and binding as between the owner and the tenant.

R.S.O. 1960, c. 343, s. 5, re-enacted

(2) Section 5 of *The Railway Fire Charge Act* is repealed and the following substituted therefor:

Exemption of agricultural lands

5. Where railway lands or any part thereof were during a calendar year actually and in good faith in use for agricultural purposes, the owner or tenant is entitled to a reduction of the charge payable by him under this Act in the following year to the extent to which such railway lands were so used if he applies therefor to the collector on or before the first day of January in the following year, and the collector may decide whether such owner or tenant has established that he is entitled to such reduction and the decision of the collector is, unless appealed from as provided in this Act, final and binding.

R.S.O. 1960, c. 343, amended

(3) The Railway Fire Charge Act is amended by adding thereto the following section:

Appeal

- 8a.—(1) An owner or tenant may appeal to the county or district court of the county or district in which the lands are situate by filing in the prescribed form a notice of appeal claiming that,
 - (a) he has been wrongly included by the collector in the roll;
 - (b) the amount of the charge stated in a bill sent by the collector to him is wrong; or

Section 76. The powers of the Minister to determine the apportionment of charges between owners and tenants or eligibility for exemption of agricultural lands are transferred to the collector. An appeal is provided from a tax bill sent out by the collector or from any decision of the collector.

Section 77. See explanatory note to similar amendments made to *The Collection Agencies Act, 1968-69* in section 21 of this Bill and also the explanatory note to the amendments to *The Department of Financial and Commercial Affairs Act, 1966*, in section 28 of this Bill.

- (c) any decision of the collector under section 4 or 5 is wrong.
- (2) The notice of appeal shall be filed with the court Notice and served on the collector not later than sixty days after receipt of a bill by the appellant sent to to him by the collector under section 8.
- (3) Where a notice of appeal has been filed with the Hearing court within the time limited by subsection 2, the judge thereof shall, on the application of either the appellant or collector, fix a time for hearing the appeal and the party who obtains the appointment shall serve on the other party notice of the hearing fifteen days before the hearing.
- (4) The judge, after hearing the appellant and the collector and any evidence adduced, may vary or annul the entry of the appellant's name in the roll or the amount of the charge stated in the bill sent to the appellant by the collector or the decision of the collector complained of.
- (5) Subsections 4, 5 and 6 of section 18 of *The Provincial* Application Land Tax Act, 1961-62 apply mutatis mutandis with c. 111 respect to the decision of the court and the proceedings on an appeal under this section.
- 77.—(1) Subsection 1 of section 1 of The Real Estate and R.S.O. 1960, Business Brokers Act, as amended by section 1 of The Real Estate subs. 1, cls. cb, cc and Business Brokers Amendment Act, 1964 and section 1 of 1968-69, The Real Estate and Business Brokers Amendment Act, 1968-69, subs. 1), is further amended by relettering clauses cb and cc as clauses amended cc and cd and by adding thereto the following clauses:
 - (ba) "business premises" does not include a dwelling;
 - (cb) "dwelling" means any premises or any part thereof occupied as living accommodation.
- (2) Sections 6, 8 and 9 of *The Real Estate and Business* R.S.O. 1960, Brokers Act, as re-enacted by section 2 of *The Real Estate and* ss. 6, 8, 9 Business Brokers Amendment Act, 1968-69, are repealed and the c. 105, s. 2), re-enacted following substituted therefor:
 - 6.—(1) An applicant is entitled to registration or Registration of agencies renewal of registration by the Registrar except where,
 - (a) having regard to his financial position, the

applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or

- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations

Refusal to register

8.—(1) Subject to section 9, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 6 or 7.

Revocation

(2) Subject to section 9, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 or 7 if he were an applicant or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke

9.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

- (2) A notice under subsection 1 shall inform the applicant Notice or registrant that he is entitled to a hearing by the hearing Tribunal if he mails or delivers, within fifteen days after the notice under section 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where an applicant or registrant does not require Powers of a hearing by the Tribunal in accordance with sub-where no section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where an applicant or registrant requires a hearing Powers of by the Tribunal in accordance with subsection 2, where the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.
- (5) The Tribunal may attach such terms and conditions Conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.
- (6) The Registrar, the applicant or registrant who has Parties required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
- (7) Notwithstanding subsection 1, the Registrar may Voluntary cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.
- (8) Where, within the time prescribed therefor or, Continuation if no time is prescribed, before expiry of his registation, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order of Tribunal effective, stay

1966, c. 41

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

R.S.O. 1960, c. 344, ss. 10-22 (1968-69, c. 105, s. 2), repealed (3) Sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of *The Real Estate and Business Brokers Act*, as re-enacted by section 2 of *The Real Estate and Business Brokers Amendment Act*, 1968-69, are repealed.

R.S.O. 1960, c. 344, s. 26 (1968-69, c. 105, s. 2), subs. 1, cl. a, re-enacted

- (4) Clause a of subsection 1 of section 26 of The Real Estate and Business Brokers Act, as re-enacted by section 2 of The Real Estate and Business Brokers Amendment Act, 1968-69, is repealed and the following substituted therefor:
 - (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

R.S.O. 1960, c. 344, s. 27 (1968-69, c. 105, s. 2), re-enacted (5) Section 27 of The Real Estate and Business Brokers Act, as enacted by section 2 of The Real Estate and Business Brokers Amendment Act, 1968-69, is repealed and the following substituted therefor:

Investigations by order of Minister

27. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such investigation as if it were an inquiry under that Act.

1971, c. . . .

Investigation by Director

- 27a.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,
 - (a) contravened any of the provisions of this Act or the regulations; or

1953-54, c. 51, (Can.)

(b) committed an offence under the Criminal Code (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred, and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an Powers of investigator investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may.

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subjectmatter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation.

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of The Public Inquiries Act, 1971, c. ... 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

- (3) No person shall obstruct a person appointed to make of an investigation under this section or withhold from investigator him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.
- (4) Where a provincial judge is satisfied, upon an ex Search warrant parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subjectmatter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an

order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters confidential

- 27b.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 24, 25, 26, 27 or 27a shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (2) No person to whom subsection 1 applies shall be Testimony required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.
- (6) Section 28 of The Real Estate and Business Brokers R.S.O. 1960, Act, as enacted by section 2 of The Real Estate and Business (1968-69, c. 105, s. 2), Brokers Amendment Act, 1968-69, is amended by striking out amended "27" in the second line and inserting in lieu thereof "27a".
- (7) Subsection 1 of section 29 of *The Real Estate and Business* R.S.O. 1960, Brokers Act, as re-enacted by section 2 of *The Real Estate* (1968-69, and Business Brokers Amendment Act, 1968-69, is repealed subs. 1, re-enacted and the following substituted therefor:
 - (1) Where,

Order to refrain from dealing with assets

- (a) an investigation of any person has been ordered under section 27a; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the $Bankruptcy\ Act\ (Canada)$, The

R.S.O. 1960, cc. 197, 71 1970, c. 25 R.S.C. 1952, cc. 14, 296

Judicature Act, The Corporations Act, The Business Corporations Act, 1970 or the Winding-up Act (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1960, c. 344, s. 29 (1968-69, c. 105, s. 2), amended Application for cancella-

direction or registration

tion of

- (8) The said section 29 is amended by adding thereto the following subsection:
 - (5) Any person referred to in clause a or b of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may. at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal

R.S.O. 1960, c. 344, s. 54*f*, subs. 1 (1968-69, c. 105, s. 14), re-enacted (9) Subsection 1 of section 54f of The Real Estate and Business Brokers Act, as re-enacted by section 14 of The Real Estate and Business Brokers Amendment Act, 1968-69, is repealed and the following substituted therefor:

Inquiries re prospectus

- (1) The Registrar may make such inquiries with respect to a prospectus as are necessary to determine whether a certificate of acceptance should be issued, including,
 - (a) an examination of the subdivision and any of the surrounding circumstances; and
 - (b) the obtaining of reports from public authorities or others within or outside Ontario.

R.S.O. 1960, c. 344, s. 54*g* (1962-63, c. 123, s. 24), re-enacted; ss. 54*h*, 54*j* (1962-63, c. 123, s. 24), repealed

(10) Sections 54g, 54h and 54j of The Real Estate and Business Brokers Act, as enacted by The Real Estate and Business Brokers Amendment Act, 1962-63, are repealed and the following substituted therefor:

- 54g.—(1) The Registrar shall grant the certificate of Powers of acceptance where the requirements of this Act and the regulations have been complied with and he shall not refuse to grant such a certificate without serving a notice of his proposal to refuse on the person on whose behalf the prospectus was filed, and section 9 applies mutatis mutandis to the proposal in the same manner as to a proposal to refuse to register an applicant.
 - (2) Where it appears to the Registrar, subsequent to the Stop orders filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in section 54e exist, he may revoke the certificate of acceptance and order that all trading in the subdivisions to which the prospectus refers shall cease forthwith.
 - (3) Subject to subsection 4, the Registrar shall not revoke Notice of a certificate of acceptance and make an order under hearing subsection 2 without serving notice of his proposal to revoke the certificate and make the order, together with written reasons therefor, on the person on whose behalf the prospectus was filed, and section 9 applies mutatis mutandis to the proposal in the same manner as to a proposal by the Registrar to revoke a registration.
 - (4) The Registrar, by notice to the person on whose Provisional behalf a prospectus was filed, may provisionally suspend the certificate of acceptance and make a provisional order under subsection 2, where continued trading in the subdivision is, in the Registrar's opinion an immediate threat to the public interest and the Registrar so states in such notice giving his reasons therefor, and thereafter section 9 applies as if the notice given under this section was a notice of proposal to revoke the certificate and make the order under subsection 3.
- (11) Section 55 of The Real Estate and Business Brokers R.S.O. 1960, C. 344, S. S. 105, Business Brokers Amendment Act, 1968-69, is repealed and the re-enacted following substituted therefor:
 - 55. Where the Registrar believes on reasonable and False probable grounds that a broker is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the

use of such material and section 9 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse a registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

re-enacted

R.S.O. 1960, c. 344, 8. 56 (12) Subsection 2 of section 50 of The Real (1968-69, c. 105, Business Brokers Act, as enacted by section 16 of The Real Amendment Act, 1968-69, is repealed and the following substituted therefor:

Where service deemed to be made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date

R.S.O. 1960, s. 16), cl. d, amended

(13) Clause d of section 57b of The Real Estate and Business c. 344, s. 57b (1968-69, c. 105, Brokers Act, as enacted by section 16 of The Real Estate and Business Brokers Amendment Act, 1968-69, is amended by striking out "or to any such person, document or material," in the second and third lines.

R.S.O. 1960, c. 344, s. 58, repealed

(14) Clause i of section 58 of The Real Estate and Business Brokers Act is repealed.

R.S.O. 1960. c. 348, s. 122 re-enacted

78. Section 122 of The Registry Act is repealed and the following substituted therefor:

Powers of Inspector under 1971, c. . . .

122. Where the Inspector in the performance of his duties under this Act has occasion to make an inquiry or to determine any matter he has the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to such inquiry or determination as if it were an inquiry under that Act.

R.S.O. 1960. c. 375, s. 1, subs. 1, cl. a, re-enacted

- **79.**—(1) Clause a of section 1 of The Silicosis Act is repealed and the following substituted therefor:
 - (a) "Director" means the Senior Physician of the Occupational Chest Disease Section of the Department of Health:
 - "health certificate" means a health certificate issued under the regulations:



Section 80. An unnecessary power to make regulations is repealed.

Section 81. No new stock yard may be established without the approval of the Ontario Stock Yards Board. Provision is made for an appeal to the Minister.

- (ab) "medical examiner" means a medical examiner designated or appointed in accordance with the regulations;
- (ac) "Minister" means the Minister of Health;
- (2) The Silicosis Act is amended by adding thereto the R.S.O. 1960, following section:
 - 3a.—(1) Health certificates under this Act may be Health certificates, issued, renewed or cancelled by medical examiners in issue, etc. accordance with the regulations.
 - (2) Where a medical examiner, after an examination of Application any person, refused to issue to him a health examination certificate or refuses to renew or cancels his health certificate, the person examined may apply in writing to the Director for a re-examination.
 - (3) An application under subsection 2 for a re-examina-Application tion shall be accompanied by a report by a legally accompanied qualified medical practitioner other than the medical physician examiner referred to in subsection 2 reporting that in his opinion the applicant is eligible to be issued a health certificate under this Act and the regulations.
 - (4) Upon receiving an application for re-examination Re-examination this section, accompanied by the report referred to in subsection 3, the Director shall cause the applicant to be re-examined by a medical examiner other than the medical examiner referred to in subsection 2 or the medical practitioner referred to in subsection 3, and the examiner conducting the re-examination shall, after examining the applicant and considering the reports of such medical examiner and such medical practitioner, determine whether or not a health certificate should be issued to the applicant or his certificate renewed or the cancellation of his certificate revoked and the decision of the examiner making the re-examination shall be final.
- **80.** Section 2 of The Spruce Pulpwood Exportation Act $^{\rm R.S.O.}_{\rm c.~379,~s.~2,}$ is repealed.
- **81.** The Stock Yards Act is amended by adding thereto R.S.O. 1960, the following section:
 - 12a. Where the Board refuses an approval requested under Appeal to section 12, the applicant for approval may appeal

the decision of the Board to the Minister who, after affording the applicant an opportunity to make representations, may confirm, rescind or alter the decision of the Board as the Minister considers proper, and the decision of the Minister is final.

R.S.O. 1960, c. 390, s. 7, re-enacted

82.—(1) Section 7 of *The Surveys Act* is repealed and the following substituted therefor:

Examination re boundaries,

7.—(1) Where a surveyor has reasonable grounds for believing that a person has information concerning a line, boundary, corner or post that may assist him in ascertaining its true position, or has a writing, plan or document concerning the true position of a line, boundary, corner or post, he may examine such person under oath or require such person to produce such writing, plan or document for his inspection and for such purposes the surveyor has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. . . .

Statement

under oath

(2) The surveyor may cause evidence taken by him under this section to be put in writing in the form of a statement under oath.

R.S.O. 1960, c. 390, s. 60, cl. c, repealed

(2) Clause c of section 60 of The Surveys Act is repealed.

R.S.O. 1960, c. 396, s. 4, subs. 2, cls. *c-e*, re-enacted **83.**—(1) Clauses c and d and clause e, as amended by section 3 of *The Theatres Amendment Act*, 1960-61, of subsection 2 of section 4 of *The Theatres Act*, are repealed and the following substituted therefor:

- (c) by order in writing, to prohibit the use or exhibition of any film that he believes on reasonable and probable grounds may not be safely used or exhibited;
- (d) by order in writing, to prohibit the use of a projector that he believes on reasonable and probable grounds was installed or operated contrary to this Act or the regulations;
- (e) to seize, remove and hold any projector that he believes on reasonable and probable grounds was installed or was or is operated, or any film or advertising that he believes on reasonable and probable grounds was exhibited or was or is used, contrary to this Act or the regulations.

Section 82. Powers conferred upon a surveyor to subpoena witnesses and take evidence under oath are replaced by the powers of a commission under Part II of *The Public Inquiries Act*, 1971.

SECTION 83.

- 1. The powers of inspectors to make orders prohibiting the use of films or projectors and to seize projectors or advertising are clarified and an appeal is given to the Director.
- 2. The powers of the Director to issue or renew licences are clarified and made subject to certain safeguards in favour of an applicant or licensee.
- 3. Throughout the Act rights to the issue of licences are conferred subject to specified grounds for refusal.
- 4. Grounds for refusing to renew or suspending or cancelling licences are specified.
- 5. An appeal is given from any decision of the Director or the Assistant Director to a judge of the county or district court and thereafter to the Divisional Court.



- (2) Section 6 of *The Theatres Act*, as amended by section $4^{\rm R.S.O.~1960}_{\rm c.~396,~s.~6}$, of *The Theatres Amendment Act*, 1960-61, is repealed and the re-enacted following substituted therefor:
 - 6.—(1) Any person to whom an inspector has issued Review of an order under section 4 or who claims an interest in order any projector, film or advertising seized by an inspector under section 4 may, within ten days after the issue of such order or after seizure, apply to the Director for a review of the order or release of the projector, film or advertising and the Director may, after a hearing, confirm, vary or annul the order of the inspector or direct the release of the projector, film or advertising.
 - (2) Where a projector, film or advertising has been seized Forfeiture of by an inspector under section 4,
 - (a) if no application for a review of the seizure is made to the Director within ten days after the seizure; or
 - (b) if the Director finds after a hearing that the projector, film or advertising was installed, used or exhibited in contravention of this Act or the regulations,

the Director may, subject to appeal as herein provided, direct that the projector, film or advertising is forfeited to the Crown.

- (3) Section 9 of *The Theatres Act* is repealed and the R.S.O. 1960, c. 396, s. 9, following substituted therefor:
 - 9.—(1) All licences and renewals, suspensions or cancellations thereof under this Act shall be issued or made by the Director.

 Issue, renewal, suspension, suspension, of licences
 - (2) Where, within the time prescribed therefor or, if no Continuation of licences time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice of a hearing by the Director, until the decision of the Director has become final.

Notice of hearing (3) Where, under this Act, the Director is authorized to refuse to renew or to suspend or cancel a licence after a hearing, the notice of the hearing shall contain a statement of the facts or conduct which the Director believes warrant the intended action and shall afford to the licensee a reasonable opportunity to show or to achieve compliance before such hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(4) The Director shall afford to an applicant or licensee who will be affected by a decision pursuant to a hearing, or his representative, an opportunity to examine, before such hearing any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.

R.S.O. 1960, c. 396, s. 13, re-enacted (4) Section 13 of *The Theatres Act* is repealed and the following substituted therefor:

Application

13.—(1) Subject to subsection 2, an applicant for a theatre licence is entitled, on payment of the prescribed fee, to be granted a theatre licence for the class of theatre prescribed by this Act applicable to the building in which the theatre is located, or the premises in which the films are exhibited.

Refusal to issue licence

- (2) The Director may, after a hearing, refuse to issue a theatre licence to an applicant therefor if,
 - (a) a theatre licence was previously issued to him under this Act and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or
 - (b) the theatre or the building in which the theatre is located or the premises in which films are exhibited do not conform to the requirements of this Act and the regulations.

R.S.O. 1960, c. 396, ss. 15, 17, re-enacted (5) Section 15 and section 17, as amended by section 8 of *The Theatres Amendment Act, 1960-61*, of *The Theatres Act* are repealed and the following substituted therefor:

Application for renewal

15. Subject to section 17, the holder of a theatre licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee.

17.—(1) The Director may, after a hearing, refuse to Refusal to renew, or suspend or cancel a theatre licence,

renew, suspension,

or cancellation

- (a) if the licensee, manager or person in charge of the theatre has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in operating the theatre; or
- (b) if the theatre, or the building in which the theatre is located or the premises in which the films are exhibited do not conform to the requirements of this Act and the regulations.
- (2) The Director may provisionally suspend a theatre Provisional suspension licence if he believes on reasonable grounds that the theatre cannot be safely operated as a theatre and shall immediately give notice of such provisional suspension to the licensee, manager or person in charge of the theatre.

- (3) Where the Director has provisionally suspended a Hearing theatre licence under subsection 2, if the licensee,
 - (a) within ten days after receiving notice of the provisional suspension requests the Director to hold a hearing, the Director shall hold a hearing and may thereafter revoke the provisional suspension or, if he finds that the theatre cannot be safely operated, may suspend or cancel the licence; or
 - (b) does not request the Director to hold a hearing within ten days after receiving notice of the provisional suspension, the Director may cancel the licence and no new licence in place of it shall be issued until such time as the Director finds, on application of the licensee, that the theatre can be safely operated.
- (6) The Theatres Act is amended by adding thereto the R.S.O. 1960, c. 396. amended following section:
 - 30a. The examinations and tests provided by the Director Examinations and tests shall be designed to determine the competence and ability of an applicant to act as a projectionist under the class of licence for which he applies.
- (7) Sections 32, 33, 34, 35 and 36 of *The Theatres Act* are c. 396, ss. 32-36, pealed and the following substituted therefor: repealed and the following substituted therefor:

Licences, first-class 32.—(1) Subject to subsection 4, the holder of a secondclass licence who has passed the examination and tests required by the Director for a first-class licence is entitled, on payment of the prescribed fee, to be issued a first-class licence by the Director.

second-class

- (2) Subject to subsection 4, a person,
 - (a) who is the holder of an apprentice licence and who has served as an apprentice for the period prescribed by the regulations; or
 - (b) who has operated projection equipment elsewhere than in Ontario for a period longer than the period prescribed by the regulations to be served by an apprentice,

and who has passed the examinations and tests required by the Director for a second-class licence, is entitled, on payment of the prescribed fee, to be issued a second-class licence by the Director.

Apprentice

- (3) Subject to subsection 4, a person,
 - (a) who is eighteen years or more of age; and
 - (b) who furnishes to the Director,
 - (i) proof of age,
 - (ii) satisfactory evidence of physical ability to handle projection and fire-fighting equipment, and
 - (iii) satisfactory evidence that he does not suffer from any physical or mental disability that would prevent him from operating projection equipment safely,

is entitled, on payment of the prescribed fee, to be issued an apprentice licence by the Director.

Refusal to issue

(4) The Director may, after a hearing, refuse to issue a projectionist licence to a person to whom a projectionist licence was previously issued under this Act if such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist.

- 33. Every projectionist licence expires on the 31st day Expiry of of March in each year unless renewed on or before that day.
- 34. Projectionist licences are not transferable.

Transfer of licence

- 35. Subject to section 36, the holder of a projectionist Renewal licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee.
- 36. The Director may, after a hearing, refuse to renew or Refusal to suspend or cancel the licence of a projectionist, suspension or cancellation
 - (a) if he has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in the operation of a projector; or
 - (b) if he suffers from any physical or mental disability that prevents him from operating projection equipment safely or from handling fire-fighting equipment.
- (8) Section 45 of *The Theatres Act* is repealed and the R.S.O. 1960, following substituted therefor:
 - 45.—(1) Subject to subsection 2, an applicant for a film Film exchange exchange licence is entitled, on payment of the licence, application prescribed fee, to be granted a film exchange licence.
 - (2) The Director may, after a hearing, refuse to issue a Refusal film exchange licence to an applicant therefor,
 - (a) if a film exchange licence was previously issued to him under this Act and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or
 - (b) where the application is for a standard film exchange licence, if the building in which the film exchange is located,
 - (i) is not of fire resistive construction in that portion of the building in which film is handled or stored,
 - (ii) is occupied in whole or in part as a dwelling,

- (iii) is occupied in whole or in part by another business that is dangerous to the carrying on of the business of the film exchange,
- (iv) otherwise does not comply with this Act and the regulations.

R.S.O. 1960, c. 396, ss. 47-49, re-enacted (9) Section 47, as amended by section 15 of *The Theatres Amendment Act*, 1960-61, and sections 48 and 49 of *The Theatres Act* are repealed and the following substituted therefor:

Renewal of licence

47. Subject to section 49, the holder of a film exchange licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee.

Transfer of licence 48.—(1) The holder of a film exchange licence is entitled to transfer his licence with the written consent of the Director.

Consent of Director (2) The Director shall not refuse his consent under subsection 1 if the transferee would be entitled to the issue of the film exchange licence if he made application therefor.

Refusal to renew, suspension or cancellation

- 49. The Director may, after a hearing, refuse to renew or suspend or cancel any film exchange licence if,
 - (a) the licensee has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in carrying on the business of a film exchange; or
 - (b) the issue of a licence would be refused under clause b of subsection 2 of section 45 if the licensee were an applicant for a licence.

R.S.O. 1960. c. 396, s. 55, re-enacted (10) Section 55 of *The Theatres Act* is repealed and the following substituted therefor:

Approval of building plans 55.—(1) No person shall construct or alter any building or premises intended for use as a theatre or to be occupied by a film exchange until the plans of the proposed construction or alteration have been submitted to the Director and have been approved by the Director in that they comply with the provisions of this Act and the regulations and provide for the safe operation of the theatre or film exchange.

- (2) Before refusing approval of any plans submitted to Hearing him under subsection 1, the Director shall hold a hearing of the application for approval.
- (11) Subsection 2 of section 58 of *The Theatres Act* is R.S.O. 1960, repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) Subject to section 59a, an applicant for a licence under Issue this section is entitled, on payment of the prescribed fee, to be issued the licence.
- (12) Subsection 2 of section 59 of *The Theatres Act* is repealed R.S.O. 1960, and the following substituted therefor:

 Subsection 2 of section 59 of *The Theatres Act* is repealed R.S.O. 1960, s. 59, and the following substituted therefor:
 - (2) Subject to section 59a, an applicant for a licence under Issue this section is entitled, on payment of the prescribed fee, to be issued the licence.
- (13) The Theatres Act is amended by adding thereto the $^{\rm R.S.O.~1960,}_{\rm c.~396,}$ following section:
 - 59a.—(1) The Director may, after a hearing, refuse to Refusal issue a licence to an applicant for a licence under section 58 or 59 who was previously issued a licence of the type for which he applies if such licence was cancelled and the grounds for such cancellation continue to exist.
 - (2) The Director may, after a hearing, cancel a licence Cancellation issued under section 58 or 59 if the licensee has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in operating a projector or exhibiting films pursuant to the licence.
- (14) Section 60 of *The Theatres Act* is repealed and the R.S.O. 1960, following substituted therefor:
 - 60. No licence shall be suspended under this Act for a Suspension period longer than three months.
 - 60a.—(1) Any person who considers himself aggrieved by Appeal a decision of the Director, or Assistant Director under this Act may, within fifteen days after receipt of the decision, appeal to the judge of the county or district court of the county or district,
 - (a) in the case of a decision relating to a licence for or approval of a theatre or film exchange, in which the building or premises to which the decision relates are located; or

(b) in any other case, where the person to whom the decision relates resides,

by applying to the judge for a hearing.

Extension of time for appeal (2) A judge to whom an application is made under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension and may give such direction as he considers proper consequent upon the extension.

Hearing de novo

(3) Where a person appeals under this section to a judge, the judge shall appoint a time for and hear the appeal by way of a hearing *de novo* and the judge may affirm or reverse the decision of the Director or make a new decision in substitution therefor and for such purpose has all the powers of the Director to make such decision as he considers proper.

Parties

(4) The appellant and the Director or the Assistant Director from whose decision the appeal is taken are parties to an appeal under this section.

Recording of evidence

(5) The oral evidence taken before the judge at a hearing shall be recorded, and if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings of

(6) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

1971, c. . . .

60b.—(1) Any party to proceedings before a judge under section 60a may appeal from his decision to the Supreme Court in accordance with the rules of court.

Appeal to court

(2) Where any party appeals from a decision of a judge, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision was made, which, together with the transcript of the evidence if it is not part of the judge's record, shall constitute the record in the appeal.

Record of proceedings

Minister entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this

section.



SECTION 84.

- 1. An appeal is given from an inspector's stop-work order to the chief officer.
- 2. General provision is made for an appeal from any other decision, order, direction, approval, finding or permission made or given by an inspector.

- (4) An appeal under this section may be made on questions of law or fact or both and the court may exercise all the powers of the judge, and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- 60c. The bringing of an appeal under section 60a or Effect of appeal on 60b does not affect the suspension or cancellation of suspension, a licence pending the disposition of the appeal.
- 60d. Where a licence has been suspended or cancelled Amendment of suspension, under this Act pursuant to a decision of the co., by Director or Assistant Director or by a judge or court on appeal therefrom, the Minister may, where he considers that undue hardship will be caused by such suspension or cancellation, and that it is not contrary to the purposes of this Act to do so, annul the suspension or cancellation.
- (15) Section 61 of *The Theatres Act* is repealed and the $^{R.S.O.\ 1960}_{c.\ 396,\ s.\ 61}$, following substituted therefor:
 - 61. Every person who contravenes any of the provisions Offence of this Act or the regulations or any order of the Board, Director, Assistant Director or an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.
- (16) Subsection 1 of section 63 of *The Theatres Act* is R.S.O. 1960, amended by adding thereto the following paragraph:

 Subs. 1, amended
 - 21a. prescribing the period of time to be served by a person holding an apprentice licence as a projectionist before he is eligible to be granted a second-class licence as a projectionist.
- (17) Paragraph 29 of subsection 1 of the said section 63 R.S.O. 1960. is repealed.
- **84.**—(1) Section 5 of *The Trench Excavators' Protection* R.S.O. 1960, Act, as amended by section 6 of *The Trench Excavators'* re-enacted *Protection Amendment Act*, 1965, is repealed and the following substituted therefor:

Order of inspector

5.—(1) Where an inspector is of opinion that any provision of this Act or the regulations is being contravened, he may give such order in writing as is necessary to ensure compliance with such provision and, until such order is carried out, the work on that part of the trench in which the contravention occurs, other than such work as is necessary to carry out the order with safety, shall be suspended.

Appeal

(2) Any person who considers himself aggrieved by an order of an inspector made under subsection 1 may appeal to the chief officer who shall hear and dispose of the appeal as promptly as is practicable, but the bringing of such appeal does not affect the operation of the order appealed from pending disposition of the appeal.

Powers of chief officer

- (3) After hearing an appeal under this section, the chief officer may substitute his findings for those of the inspector and may,
 - (a) if he finds that no provision of this Act or the regulations is being contravened, rescind the order of the inspector; or
 - (b) if he finds that any provision of this Act or the regulations is being contravened, affirm the order of the inspector or make such new order in substitution therefor as is necessary to ensure compliance with this Act and the regulations.

Suspension of work

(4) Where, on an appeal under this section, the chief officer affirms the order of an inspector appealed from or makes a new order under subsection 3, the work upon that part of the trench in which the contravention occurs, other than such work as is necessary to carry out the order with safety, shall be suspended until such affirmed or new order is carried out.

Contravention of order (5) No person to whom an order of an inspector or the chief officer is directed under this section shall contravene or knowingly permit any person under his direction or control to contravene such order or to carry on work in contravention of subsection 1 or 3.

- 5a.—(1) Any person who considers himself aggrieved Appeal from by a decision of an inspector under this Act or the regulations, other than an order under section 5, may appeal to the chief officer who shall hear and dispose of the appeal.
- (2) On an appeal under this section, the chief officer may Powers of substitute his findings or opinions for those of the inspector who made the decision appealed from and may affirm or reverse the decision or make a new decision in substitution therefor and for such purpose the chief officer has all the powers of the inspector, and the decision of the chief officer shall stand in the place of and have like effect under this Act and the regulations as the decision of the inspector.
- (3) In this section, a decision of an inspector under Decision this Act or the regulations includes any decision, approvals, order, direction, approval, finding or permission made or given by an inspector under the authority of this Act or the regulations or the refusal thereof.
- 5b.—(1) An appeal under section 5 or 5a may be made How appeals in writing or orally or by telephone, but the chief made officer may require the grounds for appeal to be specified in writing before the hearing.
- (2) The appellant, the inspector from whom the appeal Parties is taken and such other persons as the chief officer may specify are parties to an appeal under section 5 or 5a.
- (2) Subsection 2 of section 24 of *The Trench Excavators*' R.S.O. 1960, *Protection Act*, as re-enacted by section 18 of *The Trench* (1965, c. 133, Excavators' Protection Amendment Act, 1965, is repealed and the re-enacted following substituted therefor:
 - (2) Every person who is convicted of an offence for a Additional contravention of subsection 5 of section 5, in addition to the penalties mentioned in subsection 1, is liable to a fine of not more than \$100 a day for every day upon which the contravention continued.
- (3) Clause d of section 26 of The Trench Excavators' Pro-c. 407, s. 26, et. d, repealed.

1968, c. 140, s. 1, subs. 1, amended

- 85.—(1) Subsection 1 of section 1 of The Upholstered and Stuffed Articles Act, 1968, as amended by section 1 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is further amended by relettering clauses a and aa as clauses aa and ab respectively and by adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;
 - (ac) "dwelling" means any premises or any part thereof occupied exclusively as living accommodation.

1968, c. 140, s. 4, subs. 2 (1968-69, c. 135, s. 3), amended (2) Subsection 2 of section 4 of The Upholstered and Stuffed Articles Act, 1968, as re-enacted by section 3 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is amended by striking out "the Registrar may refuse to grant registration where" in the first and second lines and inserting in lieu thereof "Subject to section 9, the Registrar may refuse to grant registration to a person who otherwise has complied with the requirements of subsection 1 where".

1968, c. 140, s. 7, subs. 2, re-enacted (3) Subsection 2 of section 7 of The Upholstered and Stuffed Articles Act, 1968, as amended by subsection 2 of section 6 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is repealed and the following substituted therefor:

Power of entry

(2) For the purposes of subsection 1, the Registrar or any person designated in writing by him may enter at any reasonable time the business premises of sucl person and make an inspection in relation to the complaint.

1968, c. 140, s. 7b (1968-69, c. 135, s. 7), subs. 1, cl. a, re-enacted

- (4) Clause a of subsection 1 of section 7b of The Upholstered and Stuffed Articles Act, 1968, as enacted by section 7 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is repealed and the following substituted therefor:
 - (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

1968, c. 140, amended (5) The Upholstered and Stuffed Articles Act, 1968 is amended by adding thereto the following section:

Matters confidential 7c. Every person employed in the administration of this Act, including any person making an inspection under

Section 85. See explanatory note to similar amendments made to The Collection Agencies Act, 1968-69 in section 21 of this Bill and also the explanatory note to the amendments to The Department of Financial and Commercial Affairs Act, 1966 in section 28 of this Bill.



section 7, 7a, 7b or 20 shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment or inspection and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (6) Section 8, as re-enacted by section 8 of The Up-1968, c. 140, holstered and Stuffed Articles Amendment Act, 1968-69, and c. 135, s. 8), sections 9, 10, 11, 12 and 13, as re-enacted by section 9 s. 9 (1968-69, of The Upholstered and Stuffed Articles Amendment Act, re-enacted; 1968-69, of The Upholstered and Stuffed Articles Act, 1968, 8s. 10-13 (1968-69, c. 135, s. 9), c. 135 are repealed and the following substituted therefor:

8. Subject to section 9, the Registrar may suspend or suspension and revoke a registration where the registrant has revocation contravened this Act or the regulations and has refused to comply with this Act or the regulations after being requested to do so by the Registrar in writing.

- 9.—(1) Where the Registrar proposes to refuse to grant Notice of or renew a registration or proposes to suspend or to refuse revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.
- (2) A notice under subsection 1 shall inform the applicant requiring or registrant that he is entitled to a hearing by the hearing Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where an applicant or registrant does not require a Powers of Registran hearing by the Tribunal in accordance with sub-where no hearing section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where an applicant or registrant requires a hearing Tribunal where by the Tribunal in accordance with subsection hearing

2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order (5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation (7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Order of Tribunal effective, stay 1966, c. 41 (8) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

1968, c. 140, ss. 13*a*-13*i* (1968-69, c. 135, s. 9), repealed (7) Sections 13a, 13b, 13c, 13d, 13e, 13f, 13g, 13h and 13i of The Upholstered and Stuffed Articles Act, 1968, as enacted by section 9 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, are repealed.

1968, c. 140, s. 19, subss. 3-6, re-enacted (8) Subsection 3, as amended by subsection 1 of section 10 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, subsection 4, subsection 5, as amended by subsection 2 of section 10 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, and subsection 6 of section 19 of The Upholstered and Stuffed Articles Act, 1968, are repealed and the following substituted therefor:

Appeal

(3) Where the Registrar or local medical officer of health orders that an article be destroyed, he shall serve personally notice of such order, together with written reasons therefor, on the dealer informing him that he has a right to appeal to the Tribunal if he gives notice of appeal within five days after service of the notice by the Registrar or local medical officer of

health, and the dealer may, within such time, file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal.

- (4) Pending an appeal, the appellant shall not dispose Disposal of of the article forming the subject-matter of an prohibited appeal.
- (5) Where a dealer within five days after service on Notice of him of a notice by the Registrar or local medical officer of health under subsection 3,
 - (a) does not file a notice of appeal requiring a hearing by the Tribunal, the dealer shall forthwith carry out the order of the Registrar or local medical officer of health; or
 - (b) files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and, after the hearing, may by order confirm, revoke or modify the order appealed from and the appellant shall carry out the order of the Tribunal.
- (6) The Registrar or the local medical officer of health, Parties the dealer who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section.
- (7) Section 8e of *The Department of Financial and Com*-Application mercial Affairs Act, 1966 does not apply to proceed-s. 8e ings before the Tribunal under this section.
- (9) Clauses a, b and c of subsection 1 of section 20 of 1968, c. 140, The Upholstered and Stuffed Articles Act, 1968 are amended cls. a-c, amended cls. a-c,
- (10) The Upholstered and Stuffed Articles Act, 1968 is amended amended by adding thereto the following section:
 - 20a.—(1) Where an off-sale label is affixed to an article Appeal under section 20, the person affected may within five days thereafter file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal.

Hearing by Tribunal (2) Where a person affected within five days after the affixing of an off-sale label under subsection 1 files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and may by order confirm the affixing of the off-sale label or direct the Registrar or person designated in writing by him forthwith to remove the off-sale label.

Parties

(3) The Registrar or person designated in writing by him, the person affected who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section.

Application of 1966, c. 41, s. 8e

(4) Section 8e of The Department of Financial and Commercial Affairs Act, 1966 does not apply to proceedings under this section.

1968, c. 140, s. 21, subs. 1, amended

- (11) Subsection 1 of section 21 of *The Upholstered and Stuffed Articles Act, 1968*, is amended by adding "or" at the end of clause b and by adding thereto the following clause:
 - (c) that has been ordered to be removed by the Tribunal under section 20a.

1968, c. 140, s. 24a (1968-69, c. 135, s. 12), subs. 2, re-enacted (12) Subsection 2 of section 24a of The Upholstered and Stuffed Articles Act, 1968, as enacted by section 12 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is repealed and the following substituted therefor:

Where service deemed to be made (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

1968-69, c. 136, s. 1, amended

- **86.**—(1) Section 1 of *The Used Car Dealers Act*, 1968-69 is amended by relettering clause *a* as clause *aa* and by adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;
 - (ba) "dwelling" means any premises or any part thereof occupied as living accommodation.

Section 86. See explanatory note to similar amendments made to *The Collection Agencies Act, 1968-69* in section 21 of this Bill and also the explanatory note to the amendments to *The Department of Financial and Commercial Affairs Act, 1966* in section 28 of this Bill.



- (2) Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 1968-69, 19 and 20 of *The Used Car Dealers Act, 1968-69* are repealed re-enacted; ss. 8-20, repealed
 - 5.—(1) An applicant is entitled to registration or re-Registration newal of registration by the Registrar except where,
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
 - (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.
 - (2) A registration is subject to such terms and con-Conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.
 - 6.—(1) Subject to section 7, the Registrar may refuse Refusal to to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5.
 - (2) Subject to section 7, the Registrar may refuse to Suspension or renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke 7.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing (2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.

Powers of Registrar where no hearing (3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

Powers of Tribunal where hearing (4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation

(7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation of registration pending renewal (8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue.

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.
- (9) Notwithstanding that a registrant appeals from an Order order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, c. 41 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.
- (3) Clause a of subsection 1 of section 24 of The Used 1968-69, c. 136, s. 24, Car Dealers Act, 1968-69 is repealed and the following subsubs. 1, cl. a, stituted therefor:
 - (a) is entitled to free access to all books of accounts, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection;

(4) Section 25 of *The Used Car Dealers Act*, 1968-69 is 1968-69, repealed and the following substituted therefor: re-enacted

- 25. The Minister may by order appoint a person to make Investigations by an investigation into any matter to which this Act order of applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such 1971, c. ... investigation as if it were an inquiry under that Act.
- 25a.—(1) Where, upon a statement made under oath, the Investigation Director believes on reasonable and probable grounds that any person has,
 - (a) contravened any of the provisions of this Act or the regulations; or
 - (b) committed an offence under the Criminal Code (Can.) (Canada) or under the law of any jurisdiction

that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

- (2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,
 - (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subjectmatter of the investigation; and
 - (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

1971. c. . . .

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search warrant (4) Where a provincial judge is satisfied, upon an exparte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being

investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

- (5) Any person making an investigation under this Removal of section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.
- (6) Any copy made as provided in subsection 5 and Admissibility certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.
- (7) The Minister or Director may appoint any expert Appointment to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.
- 25b.—(1) Every person employed in the administration of Matters confidential this Act, including any person making an inquiry, inspection or an investigation under section 22, 23, 24, 25 or 25a shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony in civil suit (2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

1968-69, c. 136, s. 26, amended (5) Section 26 of *The Used Car Dealers Act, 1968-69* is amended by striking out "25" in the second line and inserting in lieu thereof "25a".

1968-69, c. 136, s. 27, subs. 1, re-enacted (6) Subsection 1 of section 27 of *The Used Car Dealers Act*, 1968-69 is repealed and the following substituted therefor:

Order to refrain from dealing with assets

- (1) Where,
 - (a) an investigation of any person has been ordered under section 25a; or
 - (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the Bankruptcy Act (Canada), The Judicature Act, The Corporations Act, The Business Corporations Act, 1970, or the Winding-up Act (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust

R.S.O. 1960, cc. 197, 71, 1970, c. 25,

R.S.C. 1952, cc. 14, 296 funds from the direction but, in the case of a bank. loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

- (7) The said section 27 is amended by adding thereto the 1968-69, c. 136, s. 27, amended following subsection:
 - (5) Any person referred to in clause a or b of subsection Cancellation 1 in respect of whom a direction has been given by or registration the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.
- (8) Section 30 of *The Used Car Dealers Act*, 1968-69 is 1968-69, c. 136, s. 30, pealed and the following substituted therefor: repealed and the following substituted therefor:
 - 30. Where the Registrar believes on reasonable and False advertising probable grounds that a used car dealer is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.
- (9) Subsection 2 of section 31 of The Used Car Dealers Act, 1968-69, c. 136, s. 31, 1968-69 is repealed and the following substituted therefor:
 - (2) Where service is made by registered mail the service When shall be deemed to be made on the third day after deemed to the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

1968-69, c. 136, s. 34, cl. *d*, amended (10) Clause d of section 34 of The Used Car Dealers Act, 1968-69 is amended by striking out "or to any such person, document or material" in the second and third lines.

1966, c. 159, s. 7, subs. 1, cl. *b*, re-enacted

- **87.**—(1) Clause b of subsection 1 of section 7 of The Vocational Rehabilitation Services Act, 1966 is repealed and the following substituted therefor:
 - (b) receive applications for vocational rehabilitation services and shall exercise such powers and perform such duties in relation thereto and in relation to such services provided under this Act as are conferred or imposed on him by this Act and the regulations.

1966, c. 159, s. 7, amended (2) The said section 7 is amended by adding thereto the following subsections:

Delegation of powers of Director (3) The Director, with the consent in writing of the Deputy Minister of Social and Family Services, may authorize any employee or class of employee of the Vocational Rehabilitation Services Branch of the Department of Social and Family Services to exercise and discharge any of the powers conferred or the duties imposed upon him under this Act.

Decision of person exercising power of Director (4) Any decision, order or directive made or given by a person exercising powers and performing duties of the Director under subsection 2 or 3 shall be deemed to be a decision, order or directive of the Director for the purposes of this Act.

1966, c. 159, amended (3) The Vocational Rehabilitation Services Act, 1966 is amended by adding thereto the following sections:

Eligibility of applicant

7a. The Director shall determine the eligibility of each applicant to receive vocational rehabilitation services and, where the applicant is eligible, determine the amount or nature of the services in accordance with this Act and the regulations and direct provision thereof accordingly.

Suspension, etc., of services

- 7b. The Director may suspend or cancel vocational rehabilitation services being provided for a disabled person where the disabled person,
 - (a) ceases to be eligible for vocational rehabilitation services under this Act or the regulations;
 - (b) fails to avail himself of vocational rehabilitation services authorized for him;

SECTION 87.

- 1. The main grounds for suspending or cancelling vocational rehabilitation services are transferred from the regulations to the Act.
- 2. The revised provisions of *The Family Benefits Act, 1966* relating to applications for, or the reduction, suspension or cancellation of services are made applicable under this Act.

Section 88. The amendments proposed to this Act are similar to the amendments proposed to *The Artificial Insemination of Cattle Act, 1962-63*, and are explained in the explanatory note to section 9 of this Bill.

- (c) is not benefiting from the vocational rehabilitation services being provided for him;
- (d) is not making satisfactory progress towards rehabilitation;
- (e) fails to provide to the Director or his representative, including a field worker, the information required to determine initial or continuing eligibility to vocational rehabilitation services; or
- (f) fails to comply with any provision of this Act and the regulations.
- (4) Section 8 of *The Vocational Rehabilitation Services Act*, 1966, c. 159, 1966, as re-enacted by section 1 of *The Vocational Rehabilita*-(1968, c. 141, tion Services Amendment Act, 1968, is repealed and the re-enacted following substituted therefor:
 - 8. Sections 10c, 11a, 11b, 11c and 11e of The Family Application Benefits Act, 1966, apply, mutatis mutandis, to refusal of an application for, or the reduction, suspension or cancellation of vocational rehabilitation services by the Director, to requests for hearings by, and to hearings, proceedings and powers of the board of review established under that Act and to appeals therefrom to the Supreme Court, as if vocational rehabilitation services were benefits under that Act.
- (5) The Vocational Rehabilitation Services Act, 1966 is $^{1966}_{amended}$, amended by adding thereto the following section:
 - 8a. Notwithstanding any decision of the Director, the Further application board or the Supreme Court, a further application for vocational rehabilitation services may be made by an applicant upon new or other evidence or where material circumstances have changed.
- (6) Clause m of section 9 of The Vocational Rehabilitation 1966, c. 159, Services Act, 1966 is repealed.
- **88.**—(1) Section 1 of *The Weed Control Act*, as amended R.S.O. 1960, by section 1 of *The Weed Control Amendment Act*, 1966, is amended further amended by relettering clause *a* as clause *aa* and by adding thereto the following clauses:
 - (a) "Board" means the Seed-Cleaning Licence Review Board established by this Act;

(ba) "Director" means the Director appointed under this Act;

.

(da) "licence" means a licence to operate a seed-cleaning plant;

. . . .

(ja) "seed-cleaning plant" means a plant for the cleaning of grains or seeds for seed purposes.

R.S.O. 1960, c. 427, s. 2, re-enacted (2) Section 2 of *The Weed Control Act* is repealed and the following substituted therefor:

Director, inspectors chief and district 2. The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act, a chief inspector and a district weed inspector for any district designated in his appointment.

R.S.O. 1960, c. 427, s. 10, subs. 6, re-enacted (3) Subsection 6 of section 10 of *The Weed Control Act* is repealed and the following substituted therefor:

Disposition of appeal

(6) The chief inspector may, after hearing an appeal under this section, confirm or revoke the order appealed from or may make a new order in place of such order, which shall be served in accordance with subsections 3 and 4.

Parties

(7) The appellant, the inspector who issued the order and such other persons as the chief inspector may specify are parties to proceedings before the chief inspector under subsection 6.

How appeal made

(8) An appeal under this section may be made in writing or orally or by telephone to the chief inspector but the chief inspector may require the grounds for appeal to be specified in writing before the hearing.

Examination of land

(9) The chief inspector may, in the presence of the parties or after affording them an opportunity to be present, view and examine land in relation to which an order appealed from under this section is made and may give his decision upon the evidence adduced by the parties and on such view and examination.

R.S.O. 1960, c. 427, s. 18, re-enacted (3) Section 18 of *The Weed Control Act* is repealed and the following substituted therefor:

- 18. No person shall operate a seed-cleaning plant without Seed-cleaning plant licence a licence therefor from the Director.
- 18a.—(1) The Director shall issue a licence to a person Licence, who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to operate a seed-cleaning plant;
 - (b) the applicant does not possess or will not have available all premises, facilities and equipment necessary to engage in the business of operating a seed-cleaning plant in accordance with this Act and the regulations; or
 - (c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
 - (2) Subject to section 18b, the Director shall renew a Renewal licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - (3) No fee is payable for a licence or any renewal Fee, thereof for a seed-cleaning plant that is used only for cleaning the grain or seed of the owner of the plant.
- 18b—(1) The Director may refuse to renew or may Refusal to suspend or revoke a licence if, after a hearing, he suspension or cancellation is of opinion that,
 - (a) the premises, facilities and equipment used in the business of operating the seed-cleaning plant pursuant to the licence do not comply with this Act and the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction in connection with his business of operating the seed-cleaning plant to contravene any provision of this Act or the regulations or of

any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating a seed-cleaning plant or any condition of the licence and such contravention warrants such refusal to renew, suspension or revocation of the licence; or

(c) any other ground for refusal to renew, suspension or revocation specified in the regulation exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or the public and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing 18c.—(1) Notice of a hearing by the Director under section 18a or section 18b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence (2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by Director 18d. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or

on the application of the person who was the applicant or licensee vary or rescind his decision but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

- 18e.—(1) A board to be known as the "Seed-Cleaning Review Board" is hereby established and established shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
 - (2) A member of the Board shall hold office for not Term of more than five consecutive years.
 - (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
 - (4) A majority of the members of the Board constitutes Quorum a quorum.
 - (5) The members of the Board shall receive such Remuneration remuneration and expenses as the Lieutenant Governor in Council may determine.
- 18f.—(1) Where the Director refuses to issue or renew or Appeal to suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.
 - (2) The Board may extend the time for the giving of Extension of notice by an applicant or licensee under subsection 1 appeal either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.
 - (3) Where an applicant or licensee appeals to the Powers of Board under this section, the Board shall hear appeal the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed,

suspended or revoked and may after the hearing confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper, and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of decision pending disposal of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

18g.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Only members at hearing to participate in decision



Section 89. The Act at present requires a licence from the Deputy Minister for the harvesting of wild rice on Crown lands. The amendments provide for control and direction by the Minister and for an inquiry procedure before refusing to issue or cancelling a licence with an appeal to the Minister.

- 18h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
 - (2) The Minister is entitled to be heard, by counsel or Minister entitled to otherwise, upon the argument of an appeal under be heard this section.
 - (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.
 - (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and the appeal court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Director or the Board.
 - (5) Notwithstanding that an applicant or licensee has Effect of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the disposal of decision of the Board is effective until the appeal is disposed of.
- **89.**—(1) Subsections 3 and 4 of section 3 of *The Wild* R.S.O. 1960, *Rice Harvesting Act* are repealed and the following subsubsus 3, 4, stituted therefor:
 - (3) The Minister shall control the issue of licences and Issue, etc., may give directions relating thereto and to the cancellation thereof and may prescribe terms and conditions of licences.
 - (4) Subject to any directions given by the Minister, the Deputy Deputy Minister may issue, refuse to issue or cancel issue, etc. licences.
 - (5) Before refusing to issue a licence or cancelling a Hearing licence, the Deputy Minister shall cause an officer in the Department to hold a hearing to which the applicant or licensee shall be a party.

Report

(6) An officer holding a hearing under subsection 5 shall make a report to the Deputy Minister of his findings of fact and law at the hearing.

Application of 1971, c. ., ss. 6-16, 21-23

(7) Sections 6 to 16 and 21 to 23 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section.

Decision after hearing (8) After considering the report of an officer holding a hearing under this section, the Deputy Minister may issue, refuse to issue or cancel the licence to which the hearing related and shall give his reasons for his decision to the applicant or licensee.

Appeal

(9) An applicant or licensee who has been refused a licence or whose licence has been cancelled by the Deputy Minister may appeal to the Minister from the decision of the Deputy Minister and the Minister shall consider the report of the officer holding the hearing and of the Deputy Minister and may issue, refuse to issue or cancel the licence to which the appeal relates.

R.S.O. 1960, c. 431, s. 4, subs. 1, cl. *a*, re-enacted

- (2) Clause a of subsection 1 of section 4 of *The Wild Rice Harvesting Act* is repealed and the following substituted therefor:
 - (a) governing the issue, form, renewal or transfer of licences and prescribing fees therefor.

R.S.O. 1960, c. 431, s. 4, subs. 1, cl. *d*, repealed

(3) Clause d of subsection 1 of the said section 4 is repealed.

R.S.O. 1960, c. 434, s. 15, re-enacted **90.** Section 15 of *The Wolf and Bear Bounty Act* is repealed and the following substituted therefor:

Entitlement to claim 15. Where a claimant for a bounty under this Act so requests, the Minister shall refer any question as to whether the claimant is entitled to the bounty or as to the amount thereof to a provincial judge having jurisdiction in the area in which the claimant resides, and the provincial judge shall hear and determine the question and his decision shall be given effect to by the Minister or the appropriate officers under this Act.

Section 90. Provision is made for the judicial determination of claims for bounty.

SECTION 91.

- 1. A board of inquiry is required to act impartially in its proceedings.
- 2. Findings of fact of a board are required to be based on evidence which is to be recorded.
 - 3. The powers of a board are clarified.
- 4. The provisions providing for an appeal to the Court of Appeal are revised to provide that the appeal is to the Divisional Court.
- 5. Since *The Statutory Powers Procedure Act, 1971*, will apply to the proceedings of a board of inquiry, provisions in this Act on matters dealt with in it are repealed.

- **91.**—(1) Subsections 2, 3, 4 and 5 of section 15 of The $^{1970}_{s. 15}$, women's Equal Employment Opportunity Act, 1970 are repealed subss. 2-5, re-enacted and the following substituted therefor:
 - (2) A true copy of the complaint shall be annexed to the Copy of notice of the hearing that is given to any party except the Director.
 - (3) A member of the board hearing a complaint shall Members at hearing not not have taken part in any investigation or con- to have taken sideration of the complaint prior to the hearing and investigation. shall not communicate directly or indirectly in etc relation to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (4) The oral evidence taken before a board at a hearing Recording of evidence shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (5) The findings of fact of the board pursuant to a $_{
 m of\ fact}^{
 m Findings}$ hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure 1971, c. ... Act, 1971.
- (6) Subject to appeal under section 24, the board has Jurisdiction exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.
- (2) Sections 16, 17, 18, 19, 20 and 21 of The Women's 1970, c. 33, Equal Employment Opportunity Act, 1970 are repealed.
- (3) Section 23 of The Women's Equal Employment Op-1970, c. 33, repealed portunity Act, 1970 is repealed.
- (4) Section 24 of The Women's Equal Employment Op-1970, c. 33, portunity Act, 1970 is repealed and the following substituted re-enacted therefor:

Appeal from order of board

24.—(1) Any party to the hearing before a board may appeal from the decision or order of the board to the Supreme Court in accordance with the rules of court.

Records to be filed in court (2) Where notice of an appeal is served under this section, the board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made, which, together with a transcript of the oral evidence taken before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act and the court may substitute its opinion for that of the board.

1970, c. 33, ss. 25, 29, repealed

(5) Sections 25 and 29 of The Women's Equal Employment Opportunity Act, 1970 are repealed.

R.S.O. 1960, c. 435, s. 7, re-enacted; ss. 8, 9, repealed

92. Sections 7, 8 and 9 of *The Woodmen's Employment Act* are repealed and the following substituted therefor:

Powers of inspector in investigations

- 7. The inspector for the purpose of making an investigation under this Act may,
 - (a) upon production of his appointment as an inspector, enter at any reasonable time upon any land and premises upon which Crown timber is being cut and removed or which are used in connection with the cutting or removal of Crown timber and examine the interior of any room, tent, cabin, house or other place of accommodation provided for the living or working places of employees and of any kitchen, dining room, storeroom or other place used for the preparation, serving or storing of food provided to employees; and
 - (b) for purposes relevant to the subject-matter of the investigation, make inquiries from any person and require the production of and

Section 92. The inspector's right of entry is clarified and his powers of inquiry are conferred by reference to Part II of *The Public Inquiries Act*, 1971.



examine documents, books and papers, including payrolls, price lists, diet sheets and shanty books, and for those purposes the inspector has the powers of a Commission under Part II of *The Public Inquiries Act, 1971*, which Part 1971, c. ... applies to such inquiries as if it were an inquiry under that Act.

- **93.** Where an appeal is provided in this Act to the Appeals to Supreme Court, the appeal, until section 14a of The Court Judicature Act comes into force, shall be to the Court of Appeal. R.S.O. 1960, c. 197
- **94.** This Act comes into force on a day to be named by Commence-the Lieutenant Governor by his proclamation.
- 95. This Act may be cited as The Civil Rights Statute Law Short title Amendment Act, 1971.





The Civil Rights Statute Law Amendment Act, 1971

1st Reading June 4th, 1971

2nd Reading

3rd Reading

THE HON. W. G. DAVIS
Prime Minister

(Government Bill)

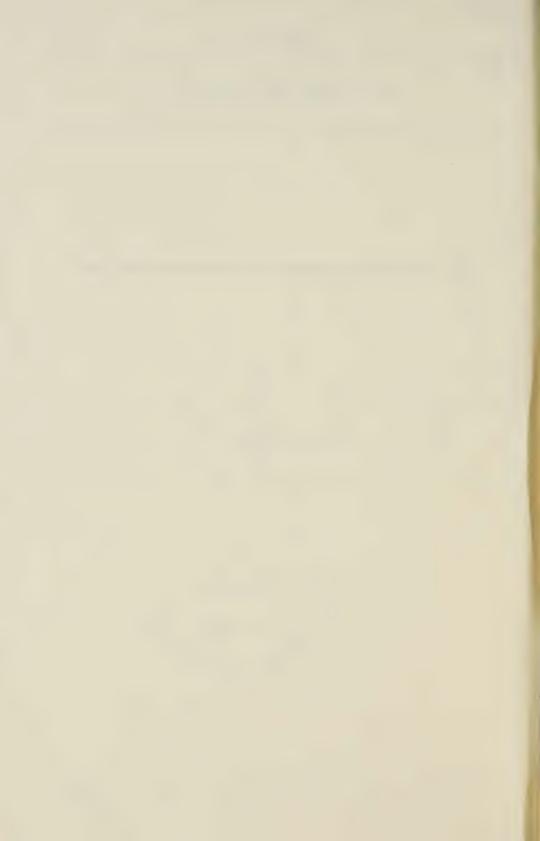
BILL 56

4th Session, 28th Legislature, Ontario 20 Elizabeth II, 1971

The Civil Rights Statute Law Amendment Act, 1971

THE HON. W. G. DAVIS
Prime Minister





BILL 56 1971

The Civil Rights Statute Law Amendment Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1. Sections 4, 5 and 6 of *The Abandoned Orchards Act*, 1966, c. 1, 1966 are repealed and the following substituted therefor: re-enacted
 - 4.—(1) Where an inspector reports in writing to the Report of Director that in his opinion the majority of the fruit trees in an orchard,
 - (a) are infected with any fruit tree disease;
 - (b) are affected by such other conditions as are designated in the regulations;
 - (c) have not been properly pruned, sprayed or treated with chemicals; or
 - (d) have not otherwise been properly maintained,

so as to seriously affect at that time the ability of the fruit trees to produce fruit commercially, the Director shall cause a copy of such report to be served on the owner of the orchard and on the Provincial Entomologist together with a notice that unless the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist within fifteen days after service of the notice, a notice requesting a hearing, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard.

(2) The copy of the report and notice mentioned in Service subsection 1 shall be served upon the owner by personal service or by mailing them addressed to him at his address shown on the last revised assessment roll, and shall be posted in a conspicuous place in the orchard.

Issue of certificate

- 5.—(1) If, within fifteen days after service of the copy and notice mentioned in subsection 1 of section 4.
 - (a) the owner or a person having an interest in the orchard does not mail or deliver a request for a hearing to the Provincial Entomologist, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard; or
 - (b) the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist, a notice requesting a hearing, the Provincial Entomologist shall hold a hearing and if, after the hearing, he concurs in the report he may issue a certificate designating the orchard as a neglected orchard.

Parties to hearing (2) The person requesting the hearing, the inspector making the report and such other persons as the Provincial Entomologist may specify, are parties to a hearing required under subsection 1.

Inspection by Provincial Entomologist (3) Where the Provincial Entomologist holds a hearing under this section, he may inspect the orchard to which it relates, affording to the person requesting the hearing or his representative an opportunity of being present at the time of such inspection, and may take into consideration the result of the inspection in reaching his decision.

Service of certificate

(4) A certificate designating an orchard as a neglected orchard shall be served upon the owner and, where a hearing was held, upon the person requesting the hearing if he is not the owner, by mailing or delivering a copy thereof to his address last known to the Provincial Entomologist, and a copy of the certificate shall be posted in a conspicuous place in the orchard.

Revocation of certificate

6. The Provincial Entomologist may at any time revoke a certificate issued under section 5.

Where service deemed made 6a. Where service of a report, notice or certificate under section 4 or 5 is made by mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the report, notice or certificate until a later date.

- 2. Section 6 of The Age Discrimination Act, 1966 is repealed 1966, c. 3, and the following substituted therefor:
 - 6.—(1) Any person who has reasonable grounds for Complaints believing that any person has contravened a provision of this Act may file with the Commission a complaint in the form prescribed by the Commission.
 - (2) Where a complaint is made by a person other than the Consent of person whom it is alleged was dealt with contrary person to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto.

6a.—(1) Where a complaint has been filed with the Com- settlement mission, the Commission or a person designated by it shall inquire into the complaint and endeavour to effect a settlement of the matter complained of.

(2) For the purposes of an inquiry under subsection 1, Access to the Commission, or any person so designated, on premises production of evidence of his designation, shall have access to and may view the premises involved in the complaint, other than an occupied place of residence, at all reasonable times and at any time when the premises are open for business or when employees are engaged in their work.

(3) Where a justice of the peace is satisfied by informa-Warrant tion upon oath that there is reasonable ground for believing that access to an occupied place of residence is required for the purposes of an inquiry under this Act, he may, at any time issue a warrant pursuant to section 14 of The Summary Convictions Act autho-R.S.O. 1960, rizing the Commission or other person named therein to enter and view such place of residence and every such warrant shall be executed between sunrise and sunset, unless the justice otherwise directs.

(4) The Commission or a person designated by it, has Inspection of records, etc. the same powers for the purposes of an inquiry under this section to inspect and examine books, payrolls, records and other documents and to take extracts or copies thereof, and to enter premises and to question employees as are possessed by the Director of Em-1968, c. 35 ployment Standards under section 33 of The Employment Standards Act, 1968.

6b.—(1) Where it appears to the Commission that a Board of inquiry complaint will not be settled, the Commission shall

make a recommendation to the Minister as to whether or not a board of inquiry should be appointed, and the Minister may, in his discretion, appoint a board of inquiry consisting of one or more persons to hear and decide the complaint.

Parties to be notified of membership of board

- (2) Forthwith after the appointment of a board of inquiry, the Minister shall communicate the names of the members of the board to,
 - (a) the Commission; and
 - (b) the parties referred to in clauses b, c and d of subsection 1 of section 6c,

and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

Remuneration of members of board (3) The Lieutenant Governor in Council may determine the remuneration of the chairman and the members of a board of inquiry appointed under this section.

Parties to proceedings

- 6c.—(1) The parties to a proceeding before a board of inquiry with respect to any complaint are,
 - (a) the Commission, which shall have the carriage of the complaint;
 - (b) the person named in the complaint as the complainant;
 - (c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;
 - (d) any person named in the complaint as alleged to have contravened this Act; and
 - (e) any other person specified by the board upon such notice as the board may determine and after such person has been given an opportunity to be heard against his joinder as a party.

Copy of complaint annexed to notice (2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party except the Commission. (3) A member of the board hearing a complaint, shall Members at hearing not have taken part in any investigation or consideration to to have taken part in tion of the complaint prior to the hearing and shall investigation, not communicate directly or indirectly in relation etc. to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (4) The oral evidence taken before a board at a hearing Recording of evidence shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (5) The findings of fact of the board pursuant to a hear-findings of fact ing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure Act, 1971. 1971, c. ...
- (6) Subject to appeal under section 6e, the board of Jurisdiction inquiry has exclusive jurisdiction and authority to determine any question of fact or law, or both, required to be decided by the board in reaching its decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.
- 6d. The board, after hearing a complaint,

Powers of board

- (a) shall decide whether or not any party has contravened this Act; and
- (b) may order any party who has contravened this Act to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision and to rectify any injury caused to any person by such contravention or to make compensation therefor.
- 6e.—(1) Any party to a hearing before a board may appeal Appeal from decision from the decision or order of the board to the Supreme of board Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be filed section, the board shall forthwith file in the Supreme in court Court the record of the proceedings before it in which the decision or order appealed from was made, which,

together with a transcript of the oral evidence before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

Representations by Minister (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court (4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act, and the court may substitute its opinion for that of the board.

R.S.O. 1960, c. 6, s. 1, amended

- **3.**—(1) Section 1 of *The Agricultural Associations Act* is amended by adding thereto the following clause:
 - (c) "Superintendent" means an officer of the Department of Agriculture and Food designated by the Minister as the Superintendent of Agricultural Associations.

R.S.O. 1960, c. 6, s. 18, re-enacted (2) Section 18 of *The Agricultural Associations Act* is repealed and the following substituted therefor:

Forfeiture of powers in non-user 18.—(1) Where the Superintendent is satisfied, after a hearing, that an Association has ceased for twelve months to do business as required by this Act and by its constitution and by-laws, or that the business of the Association is not being properly conducted, he may recommend to the Minister that the corporate powers of the Association be forefeited and the Minister may, after considering the record of the proceedings before the Superintendent and affording to any party to the proceedings an opportunity for argument, by order declare that the corporate powers of the Association are forfeited, and such powers shall thereupon cease and the Minister may give such directions as he considers proper to wind up the affairs of the Association.

Parties

(2) The Association, the complainant if any, and such other persons as the Superintendent may specify are parties to proceedings before the Superintendent under subsection 1.

Stated

(3) The Superintendent or the Minister, as the case may be, may, of his own motion or upon the request of any party to proceedings under this section, state a case in writing to the Supreme Court setting forth any question of law that arises in the proceedings and the facts material thereto.

- (4) If the Superintendent or the Minister, as the case Refusal may be, refuses to state a case under this section, case the party requesting it may apply to the Supreme Court for an order directing him to state such a case.
- (5) Where a case is stated under this section, the Decision Supreme Court shall hear and determine in a summary manner the question raised and shall certify its decision to the Superintendent or to the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the proceedings under subsection 1 in accordance therewith.
- **4.**—(1) Section 2 of *The Agricultural Societies Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 2.—(1) Where any dispute arises as to the operation or Disputes construction of this Act, the Superintendent shall, after a hearing, decide such dispute.
 - (2) A party to a dispute under this section may appeal Appeal from a decision of the Superintendent to the Minister within fifteen days after receipt of a copy of the decision of the Superintendent and the Minister may, after considering the record of the proceedings before the Superintendent and affording to the party an opportunity to submit argument on the appeal, affirm, vary or annul the decision of the Superintendent.
 - (3) The Superintendent or the Minister, as the case may Stated be, may of his own motion, or upon the request of any party to a dispute or an appeal, state a case in writing to the Supreme Court setting forth any question of law that arises at the hearing or on the appeal and the facts material thereto.
 - (4) If the Superintendent or the Minister, as the case Idem may be, refuses to state a case under this section, the party requesting it may apply to the Supreme Court for an order directing him to state such a case.
 - (5) Where a case is stated under this section, the Idem Supreme Court shall hear and determine the question raised in a summary manner and shall certify its

decision to the Superintendent or the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the dispute in accordance therewith.

R.S.O. 1960, c. 11, ss. 31, 32, re-enacted (2) Sections 31 and 32 of *The Agricultural Societies Act* are repealed and the following substituted therefor:

Inspection

31.—(1) The Minister may appoint a person to inspect the books and accounts of any society receiving legislative grants under this Act or to inquire into the affairs of such society, and every officer of the society shall, when required by such person, make available the books and accounts thereof for the purposes of such inspection or inquiry.

Powers under 1971, c. . . Pt. II (2) A person appointed under subsection 1 has, for the purposes of an inspection or inquiry thereunder, the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inspection or inquiry as if it were an inquiry under that Act.

Fraud or misrepresentation by exhibitor 32.--(1) Where the board of a society has reason to believe that any member or other person exhibiting any farm product, animal, fowl or other goods at an exhibition of the society has committed a fraud or made any misrepresentation in respect of such farm product, animal, fowl or other goods, the board may withhold payment or delivery of any premium or prize to such person, and the board shall forthwith furnish to him a written statement of its reasons for so doing.

Appeal

(2) A member or other person from whom a premium or prize has been withheld by the board of a society under subsection 1 may appeal, within fifteen days after receipt of the statement of the reasons of the board furnished under subsection 1, to a judge of the county or district court of the county or district in which the head office of the society is situate by filing a notice of appeal in the office of the clerk of the court and leaving a copy of the notice of appeal at the head office of the board.

Parties

(3) The appellant and the board from whose decision the appeal is taken are parties to an appeal under this section.

Hearing de novo (4) An appeal to a judge under this section shall be held by way of a hearing *de novo*.

- (5) On an appeal under this section, the judge may Powers of affirm, vary or annul the decision of the board and may order the board to pay or deliver any premium or prize withheld by it under this section.
- 5.—(1) Section 8 of *The Ambulance Act, 1968-69* is 1968-69, amended by striking out "The Director may refuse to issue amended a licence" in the first line and inserting in lieu thereof "Subject to section 10, the Director may refuse to issue a licence".
- (2) Clauses b, c and d of the said section 8 are repealed $\begin{array}{c} 1968-69, \\ c. 3, s. 8, \\ cls. b-d, \\ re-enacted \end{array}$
 - (b) where there is no public need for the ambulance service to be operated pursuant to the licence in the area where the applicant proposes to operate;
 - (c) where the applicant is not competent to operate or financially capable of operating the ambulance service reliably; or
 - (d) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the ambulance service will not be operated in accordance with law and with honesty and integrity.
- (3) Section 9 of *The Ambulance Act, 1968-69* is amended by ¹⁹⁶⁸⁻⁶⁹_{c.3, s. 9}, adding at the commencement thereof "Subject to section 10". amended
- (4) The Ambulance Act, 1968-69 is amended by adding $^{1968-69}_{\text{c. 3, amended}}$ thereto the following section:
 - 9a.—(1) Where the Director issues a licence under this Hearing Act and the licensee is dissatisfied with the terms of licence and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Commission require a hearing by the Commission and the Commission shall appoint a time for and hold a hearing.
 - (2) Pursuant to a hearing under subsection 1, the Com-Powers of mission may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper and such terms and conditions shall be terms and conditions of the licence.

1968-69, c. 3, ss. 10, 11, re-enacted; ss. 12-15, repealed (5) Sections 10, 11, 12, 13, 14 and 15 of *The Ambulance Act, 1968-69* are repealed and the following substituted therefor:

Proposal to suspend, etc. 10.—(1) Where the Director proposes to refuse to issue or renew a licence or proposes to revoke or suspend a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Commission if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Commission and he may so require such a hearing.

Powers of Director where no hearing (3) Where an applicant or licensee does not require a hearing by the Commission in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of Commission where hearing (4) Where an applicant or licensee requires a hearing by the Commission in accordance with subsection 2, the Commission shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Commission considers the Director ought to take in accordance with this Act and the regulations, and for such purpose the Commission may substitute its opinion for that of the Director.

Terms and conditions

(5) The Commission may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.

Extension of time for appeal (6) The Commission may extend the time for the giving of notice requiring a hearing by an applicant or licensee under this section either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Commission may give such directions as it considers proper consequent upon the extension.

(7) Where, within the time prescribed therefor or, if no Continuation of licence time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Commission has expired and. where a hearing is required, until the Commission has made its decision.
- 11.—(1) The Director, the applicant or licensee who has Parties required the hearing and such other persons as are specified by the Commission are parties to proceedings before the Commission under this Act.
- (2) Notice of a hearing under section 10 shall afford hearing the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(3) An applicant or licensee who is a party to proceed-branching ings under section 10 shall be afforded an opportunity mentary evidence to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

(4) Members of the Commission holding a hearing shall Members not have taken part in any investigation or considera-not to have tion of the subject-matter of the hearing before the taken hearing and shall not communicate directly or in-investigation, directly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Commission may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(5) The oral evidence taken before the Commission at Recording of evidence a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

1971, c. . .

(6) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision (7) No member of the Commission shall participate in a decision of the Commission pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

1968-69, c. 3, s. 16, subs. 1, amended (6) Subsection 1 of section 16 of *The Ambulance Act*, 1968-69 is amended by striking out "under subsection 4 of section 15" in the third line.

1968-69, c. 3, s. 16, subs. 3, re-enacted (7) Subsection 3 of the said section 16 is repealed and the following substituted therefor:

Appeal to Court (3) Any person requesting a review under subsection 1 may appeal the Minister's decision on any point of law to the Supreme Court in accordance with the rules of court.

1968-69, c. 3, s. 17, re-enacted (8) Section 17 of *The Ambulance Act*, 1968-69 is repealed and the following substituted therefor:

Service of notices 17. Except where otherwise provided, any notice required by this Act to be served shall be served personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

1968-69, c. 3, s. 18, subs. 2, amended (9) Subsection 2 of section 18 of *The Ambulance Act*, 1968-69 is amended by inserting after "inspector" in the first line "upon the production of his appointment under subsection 1" and by inserting after "the" in the first line "business".

1968-69, c. 3, s. 18, amended (10) The said section 18 is amended by adding thereto the following subsection:

Confidential matters

(3) Each person employed in the administration of this Act, including any person making an inquiry,

inspection or an investigation under this section shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- 6.—(1) Section 1 of The Animals for Research Act, 1968-69, 1968-69 is amended by adding thereto the following clauses: amended
 - (ca) "licence" means a licence under this Act;
 - (fa) "registration" means a registration under this Act.
- (2) Subsections 2, 3 and 4 of section 4 of *The Animals for* ¹⁹⁶⁸⁻⁶⁹ c. 4, s. 4, *Research Act*, 1968-69 are repealed and the following sub-subss. 2-4, re-enacted stituted therefor:
 - (2) Where the Director is of the opinion that an Refusal to applicant does not comply with clauses a and b of subsection 3 of section 3, he may, after a hearing, refuse to issue the licence.
 - (3) Subject to subsection 4, the Director shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - (4) Where the Director is of the opinion, in the case of Refusal to renew, a licensee, that clause a or b of subsection 4 of suspension, section 3 applies, he may, after a hearing, refuse to renew or may suspend or revoke the licence.
- (3) Subsections 2, 3 and 4 of section 6 of *The Animals for* 1968-69, Research Act, 1968-69 are repealed and the following subsubsections 2.4, stituted therefor:

Refusal to register (2) Where the Director is of the opinion that a research facility in respect of which an application for registration is made does not contain the facilities, equipment or materials referred to in subsection 2 of section 5, he may, after a hearing, refuse to register the research facility.

Renewal

(3) Subject to subsection 4, the Director shall renew a registration on application therefor by the registrant in accordance with this Act and the regulations and payment of the prescribed fee.

Refusal to renew, suspension, etc. (4) Where the Director is of the opinion that clause *a* or *b* of subsection 3 of section 5 applies, he may, after a hearing, refuse to renew or may suspend or revoke the registration of the research facility.

1968-69, c. 4, ss. 7-12, re-enacted; ss. 13, 14, 16, repealed (4) Sections 7, 8, 9, 10, 11, 12, 13, 14 and 16 of *The Animals for Research Act*, 1968-69 are repealed and the following substituted therefor:

Provisional suspension, etc.

7.—(1) Notwithstanding section 4 and section 6, the Director, by notice to an operator and without a hearing, may provisionally refuse to renew or suspend the operator's licence or registration where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of, or the prevention of cruelty or maltreatment to, or of neglect of any animal and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence or registration should be refused or whether the licence or registration should be further suspended or revoked under this Act and the regulations.

Continuation of licence or registration pending renewal (2) Subject to subsection 1, where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence or registration, an operator has applied for a renewal thereof and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence or registration shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing 8.—(1) The notice of a hearing by the Director under section 4 or section 6 shall afford to the applicant or operator a reasonable opportunity to show or to

achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence or registration.

(2) An applicant or operator who is a party to pro-Examination ceedings in which the Director holds a hearing shall mentary be afforded an opportunity to examine before the evidence hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

9. Where the Director has refused to issue or renew or Variation of decision by has suspended or revoked a licence or registration Director pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or operator vary or rescind his decision but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act or the regulations.

10.—(1) Where the Director refuses to issue or renew or Appeal to Review suspends or revokes a licence or registration, the Board applicant or operator may by written notice delivered to the Director and filed with the Review Board within fifteen days after receipt of the decision of the Director, appeal to the Review Board.

- (2) The Review Board may extend the time for the Extension giving of notice by an applicant or operator under for appeal subsection 1 either before or after expiration of such time where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.
- (3) Where an applicant or operator appeals to the Review of appeal Board in accordance with subsection 1, the Review Board shall hear the appeal by way of a hearing de novo to determine whether the licence or registration should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Review Board considers proper and, for such purpose, the Review Board may substitute its opinion for that of the Director.

(4) Notwithstanding that an applicant or operator has pending disposal appealed under this section, from a decision of the of appeal Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

11.—(1) The Director, the appellant and such other persons as the Review Board may specify are parties to the proceedings before the Review Board under this Act.

Members making decision not to have taken part in investigation, (2) Members of the Review Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Review Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(4) The findings of fact of the Review Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure Act. 1971.

1971, c. . . . members

at hearing to participate in decision

Only

(5) No member of the Review Board shall participate in a decision of the Review Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Review Board shall be given unless all members so present participate in the decision.

Appeal to court

12.—(1) Any party to the hearing before the Review Board may appeal from the decision of the Review Board to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

- (3) The chairman of the Review Board shall certify to Record to the Registrar of the Supreme Court the record of in court the proceedings before the Review Board which, together with a transcript of the evidence before the Review Board, if it is not part of the Review Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on Powers of questions of law or fact or both and the court may appeal confirm or alter the decision of the Review Board or direct the Director to do any act the Director is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Review Board.
- (5) Notwithstanding that an applicant or licensee has Effect of appealed under this section, from a decision of the Board Review Board, unless the Review Board otherwise disposal directs, the decision of the Review Board is effective of appeal until the appeal is disposed of.
- 7.—(1) Section 1 of The Apprenticeship and Tradesmen's 1964, c. 3, Qualification Act, 1964 is amended by adding thereto the amended following clauses:
 - (aa) "certified trade" means a trade designated as a certified trade under section 10;
 - (ca) "licence" means a licence under this Act and the regulations to operate a trade school and "licensee" means the holder of a licence.
- (2) Clause a of subsection 1 of section 7 of The Apprentice-1964, c. 3, ship and Tradesmen's Qualification Act, 1964 is amended by cl. a, inserting after "inspect" in the first line "upon production of his authorization under this subsection".
 - (3) Clause e of subsection 1 of the said section 7 is repealed. c.s., subs. 1, cl. e, repealed.
- (4) The Apprenticeship and Tradesmen's Qualification Act, 1964, c. 3, amended 1964 is amended by adding thereto the following sections:
 - 7a.—(1) Subject to subsection 2, the Director, or any Cancellation person authorized by the Minister in writing, may cancel for cause a contract of apprenticeship.

Notice of proposal to cancel, right to hearing (2) Where the Director, or any person authorized under subsection 1, proposes to cancel for cause a contract of apprenticeship under subsection 1, he shall serve notice of his proposal, together with written reasons therefor, on each party to the contract informing him that he has a right to a hearing by a judge if he applies therefor within fifteen days after service of such notice, and a party to the contract may within such time apply for a hearing to the judge of the county or district court of the county or district where the apprentice who is a party to the contract resides.

Powers of Director where no hearing (3) Where none of the parties to a contract to which a notice under subsection 2 relates, applies to a judge for a hearing within fifteen days after service of such notice, the Director or person authorized under subsection 1 may forthwith cancel the contract.

Powers of judge where hearing

(4) Where a party to a contract to which a notice under subsection 2 relates, applies to a judge for a hearing within fifteen days after service of such notice, the judge shall appoint a time for and hold a hearing and on application at the hearing by the Director or person serving the notice, may by order direct the Director or such person to cancel the contract or to refrain from cancelling the contract, as the case may be, and as the judge considers proper in accordance with this Act and the regulations.

Parties

(5) The Director or person serving the notice under subsection 1, the parties to the contract to which the notice relates and such other persons as the judge may specify are parties to proceedings before the judge under this section.

Certificate of apprenticeship 16a. Where an apprentice has completed an apprenticeship training programme for a certified trade and has passed such final examinations as are prescribed by the Director to determine his competency and has complied with the provisions of this Act and the regulations, the Director shall issue to him a certificate of apprenticeship for the certified trade.

Certificate of qualification, to holder of certificate of apprenticeship

16b.—(1) Where an applicant for a certificate of qualification for a certified trade is the holder of a certificate of apprenticeship in the trade issued under this Act or a predecessor of this Act, the Director shall,

upon payment of the prescribed fee and without examination, issue to him a certificate of qualification for the trade.

- (2) Where an applicant for a certificate of qualification To non-holder of a certified trade who is not the holder of a certi-certificate ficate of apprenticeship in the trade has complied ship with the requirements of this Act and the regulations to entitle him to such certificate of qualification, the Director shall, upon payment of the prescribed fee, issue to him a certificate of qualification for the certified trade.
- 16c.—(1) Unless otherwise prescribed by regulation, a Term of certificate of qualification expires two years after the date of its issue.
 - (2) Subject to section 16d, a certificate of qualification Renewal shall be renewed by the Director upon application and payment of the prescribed fee by the holder.
- 16d. Subject to section 16f, the Director may refuse to Refusal to renew, renew or may suspend or revoke a certificate of suspension qualification where,
 - (a) the holder is convicted of an offence under this Act or the regulations; or
 - (b) there are reasonable grounds for believing that the holder is without capacity or not competent to perform work in the certified trade to which the certificate relates with reasonable skill.
- 16e. Where under the regulations a licence is required Suspension, for the operation of a trade school teaching any trade school trade to which this Act applies and a licence for a trade school has been issued thereunder, subject to section 16f, the Director may refuse to renew or may suspend or revoke the licence where the school is not being operated,
 - (a) in accordance with this Act and the regulations; or
 - (b) so as to provide reasonable and adequate training for the students taught therein.
- 16f.—(1) Where the Director proposes to refuse to renew Proposal to suspend, or to suspend or revoke a certificate of qualification etc., licence

or a licence under section 16d or 16e, he shall serve notice of his proposal, together with written reasons therefor, on the holder of the certificate or licensee.

Notice

(2) A notice under subsection 1 shall inform the holder of the certificate or licensee that he is entitled to a hearing by a judge of the county or district court for the county or district in which he resides if he applies to a judge thereof within fifteen days after the notice under subsection 1 is served on him and he may so apply for such a hearing.

Powers of Director where no hearing (3) Where a holder of a certificate or licensee does not apply to a judge for a hearing in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of judge where hearing (4) Where a holder of a certificate or licensee applies to a judge for a hearing in accordance with subsection 2, the judge shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may, by order, direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the judge considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Director.

Continuation of certificate or licence pending renewal

- (5) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his certificate of qualification or licence, a holder of the certificate or the licensee has applied for renewal thereof and paid the prescribed fee, the certificate or licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision.

Parties

(6) The Director, the holder of a certificate or licensee who has applied for the hearing and such other persons as the judge may specify are parties to proceedings before a judge under this section.

Service of notice 16g.—(1) Service of a notice under section 7a or section 16f may be made personally or by registered mail

addressed to the person to be served at his last known address, and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

- (2) A judge to whom application is made for a hear-Extension ing under section 7a or section 16f may extend the for appeal time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are prima facie grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.
- (3) Notice of a hearing under section 7a or 16f shall Notice of afford the parties or the holder of a certificate or licence, as the case may be, a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the continuation of the contract of apprenticeship or retention of the certificate of qualification or licence.
- (4) A party to a contract of apprenticeship or a holder Examination of a certificate of qualification or licensee who is a mentary party to proceedings under section 7a or 16f shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- (5) The oral evidence taken before the judge at a hear-Recording ing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (6) The findings of fact of a judge pursuant to a hear-findings ing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Appeal to

16h.—(1) Any party to proceedings before a judge under this Act may appeal from the decision or order of the judge to the Supreme Court in accordance with the rules of court.

Record to be filed in court (2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made which, together with the transcript of the evidence before the judge, if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(4) The Supreme Court may affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations, and may order the Director to do any act or thing he is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

1964, c. 3,s. 18, cl. f, re-enacted

- (5) Clause f of section 18 of The Apprenticeship and Tradesmen's Qualification Act, 1964 is repealed and the following substituted therefor:
 - (f) providing licences for trade schools teaching any trade to which this Act applies and respecting their issue and prescribing courses of study and methods of training in such trade schools and respecting their operation.

1964, c. 3, s. 18, cl. *l*, re-enacted

- (6) Clause l of the said section 18 is repealed and the following substituted therefor:
 - (l) providing for Interprovincial Standards Examinations and standing thereunder and for the recognition of certificates or standings granted under Inter-

provincial Standards Examinations in other provinces and the granting of certificates of qualification pursuant thereto;

- (la) providing for the granting of provisional certificates of qualification and the grounds therefor and the conditions thereof;
- (lb) respecting the renewal of certificates of qualification that have expired without being renewed and the conditions of renewal;
- (lc) providing for the issue of certificates of qualification or licences to persons whose certificates or licences have been cancelled and the conditions upon which they may be issued.
- (7) Clause r of the said section 18 is repealed.

1964, c. 3, s. 18, cl. r, repealed

- **8.**—(1) Section 1 of *The Archaeological and Historic Sites* R.S.O. 1960. *Protection Act* is amended by adding thereto the following amended clause:
 - (da) "land" does not include buildings or structures other than ruins
- (2) Section 2 of *The Archaeological and Historic Sites Pro-* $^{\text{R.S.O. 1960}}_{\text{c. 19, s. 2,}}$ *tection Act* is repealed and the following substituted therefor: $^{\text{re-enacted}}$
 - 2. Subject to sections 2a and 2b, the Minister may Designation designate any land that he has reasonable grounds for believing to be of value for the purposes of,
 - (a) the promotion or advancement of archaeological research and knowledge; or
 - (b) the protection and preservation of historical associations and knowledge,

to be an archaeological or an historic site.

2a.—(1) Subject to section 2b, where the owner of any Reference to land does not consent to its designation as an archae-board ological site or as an historic site, the Minister shall, before designating it under section 2, refer the matter to the advisory board established under section 9 for a hearing and report.

Hearing

(2) Pursuant to a reference by the Minister under this section, the advisory board shall forthwith hold a hearing as to whether the land in question should be designated under section 2 and the Minister, the owner or any person having an interest in the land and such other persons as the advisory committee may specify are parties to the hearing.

Application of 1971, c. ...

(3) Sections 6 to 16 and 21 to 23 of *The Statutory Powers* Procedure Act, 1971 apply mutatis mutandis with respect to a hearing under this section.

Report

(4) The advisory board shall, at the conclusion of a hearing under this section, make a report to the Minister setting out its findings of fact and any information or knowledge used by it in reaching its recommendations, and its recommendations as to whether the land should be designated under section 2, and shall send a copy of its report to other parties to the hearing.

Decision of Minister (5) After considering a report made under this section, the Minister may designate the land in question under section 2 and shall give notice of his decision to the owner and any person interested in the land stating the reasons therefor.

Designation of site on grounds of urgency 2b.—(1) Where the Minister has reasonable grounds for believing that any land is of value for the purposes specified in section 2 and that it is urgent to protect the land for such purposes, he may forthwith designate such land as an archaeological site or as an historic site and cause notice in writing of such designation stating the reasons therefor to be given to the owner of such land or to any other person, and such designation shall be effective forthwith in relation to any person to whom such notice has been given or who has knowledge of it.

Notice of designation

(2) A notice under subsection 1 may be delivered personally to any person or may be sent by telegram addressed to such person and a copy of such notice may be posted on the land to which it relates and when so posted every person occupying or present on such land shall be presumed to have knowledge of the notice.

- (3) The Minister may by order appoint one or more Investigation persons to make an investigation to ascertain whether hearing any lands designated under this section are of value for the purposes specified in section 2 and shall forthwith refer the matter to the advisory board appointed under section 9 for a hearing and report.
- (4) A person appointed under subsection 3 may enter Powers of upon and inspect the lands designated under subsection 1.
- (5) No person shall obstruct a person appointed under Obstruction subsection 3 in conducting his investigation or with-holding of hold or destroy or conceal or refuse to furnish any information or thing required by the person conducting the investigation for the purposes of the investigation.
- (6) A person conducting an investigation under this Report of section shall, as promptly as is practicable, report the result of his investigation to the Minister and to the advisory board and the advisory board shall thereupon hold a hearing and the provisions of subsections 2 to 5 of section 2a apply to the proceedings of the advisory board.
- (7) Unless sooner revoked by the Minister, a designation Effect of made under this section shall be effective until sixty days after the advisory board makes its report to the Minister, but the Minister may, prior to that time, designate the lands under section 2.
- 2c. Where land is designated under section 2 or 2b and Compensation no agreement as to the terms and conditions upon which the designation is made, including payment of compensation, if any, has been reached by the Minister with the owner, the owner shall be entitled to compensation,
 - (a) for any reduction in market value of the land designated;
 - (b) for any reduction in the market value of any land contiguous to the lands designated owned by the owner or used under unified control with the lands designated by the owner; and

(c) for any personal or business damages, resulting from the designation,

1968-69, c. 36

and the provisions of *The Expropriations Act*, 1968-69, with respect to the negotiation, payment and fixing of compensation, apply *mutatis mutandis* as if the designation and the resulting restrictions imposed by this Act were an expropriation of rights.

R.S.O. 1960, c. 19, s. 4, subss. 2, 3, re-enacted

(3) Subsections 2 and 3 of section 4 of *The Archaeological and Historic Sites Protection Act* are repealed and the following substituted therefor:

Terms and conditions

(2) The Minister may limit the time during which, or the location or area in which, excavations or alterations may be made under a permit and may impose other terms and conditions for the purposes specified in section 2 for the protection of archaeological or historic sites or archaeological or historical objects.

Cancellation of permit

(3) Subject to subsection 4, the Minister may cancel a permit at any time where he has reasonable grounds for believing it is advisable for the protection of archaeological or historic sites or archaeological or historical objects.

Reference to advisory board for hearing (4) Where the Minister cancels a permit under subsection 3, he shall forthwith notify the permittee in writing of the cancellation and of the reasons therefor, and if the permittee requests a hearing within ten days after receiving notice of the cancellation, the Minister shall refer the matter to the advisory board appointed under section 9 for a hearing and report, and subsections 2 to 5 of section 2a apply mutatis mutandis to the proceedings thereafter and, after considering the report of the advisory board, the Minister may affirm or rescind cancellation of the permit.

1962-63, c. 5, s. 1, amended

- **9.**—(1) Section 1 of *The Artificial Insemination of Cattle Act, 1962-63* is amended by adding thereto the following clauses:
 - (aa) "Board" means the Artificial Insemination of Cattle Licence Review Board established by this Act;

- (ea) "licence" means a licence under this Act.
- (2) Section 8 of *The Artificial Insemination of Cattle Act*, 1962-63, c. 5, s. 8, 1962-63 is repealed and the following substituted therefor: re-enacted
 - 8.—(1) The Commissioner shall issue a licence to a Licence, person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the operations that would be authorized by the licence;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the operations that would be authorized by the licence will not be carried on in accordance with law;
 - (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the operations that would be authorized by the licence in accordance with this Act and the regulations; or
 - (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
 - (2) Subject to section 8a, the Commissioner shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - 8a.—(1) The Commissioner may refuse to renew or may Refusal to suspend or cancel a licence if, after a hearing, he is suspension of opinion that,

- (a) the premises, facilities and equipment used in the operations authorized by the licence do not comply with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant there-of has contravened or has permitted any person under his control or direction in connection with the operations authorized by the licence to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the operations authorized by the licence and such contravention warrants such refusal to renew, suspension or cancellation of the licence; or
- (c) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the Commissioner, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any animal and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where, within the time prescribed or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

Notice of hearing 8b.—(1) The notice of a hearing by the Commissioner under section 8 or section 8a shall afford to the applicant or licensee a reasonable opportunity to

show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

- (2) An applicant or licensee who is a party to proceed-Examination of docuings in which the Commissioner holds a hearing mentary shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 8c. Where the Commissioner has refused to issue or Variation of renew or has suspended or cancelled a licence pur-Commissuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.
- 8d.—(1) A board to be known as the "Artificial In-Beview semination of Cattle Licence Review Board" is hereby established established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
- (2) A member of the Board shall hold office for not Term of more than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remuneramuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to

8e.—(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board.

Extension of time for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1 either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Disposal of appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

Effect of decision pending disposal of appeal (4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of.

Parties

8f.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the

nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Board at a hear-Recording ing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, ¹⁹⁷¹, c. ... 1971.
- (5) No member of the Board shall participate in a only decision of the Board pursuant to a hearing unless at hearing he was present throughout the hearing and heard in decision the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 8g—(1) Any party to the hearing before the Board may Appeal to appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under to be heard this section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and the appeal court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the

Board as the court considers proper, and the court may substitute its opinion for that of the Commissioner or the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

1960-61, c. 5, s. 1, amended

- **10.**—(1) Section 1 of *The Bailiffs Act, 1960-61*, as amended by section 1 of *The Bailiffs Amendment Act, 1964*, is further amended by adding thereto the following clause:
 - (aa) "business premises" does not include a dwelling.

1960-61, c. 5, s. 1, cl. ca
(2) Clause ca of the said section 1, as enacted by section 1 (1964, c. 5, s. 1), of The Bailiffs Amendment Act, 1964, is repealed and the following substituted therefor:

- (ca) "Director" means the Director of the Consumer Protection Division of the Department of Financial and Commercial Affairs;
- (cb) "dwelling" means any premises or any part thereof occupied as living accommodation;

1968-69, c. 11

(cc) "Registrar" means the Registrar of Collection Agencies under The Collection Agencies Act, 1968-69.

1960-61, c. 5, s. 1, amended

(3) The said section 1 is further amended by adding thereto the following clause:

1966, c. 41

(f) "Tribunal" means the Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*, 1966.

c. 5, s. 7, amended (4) Section 7 of *The Bailiffs Act, 1960-61*, as amended by section 2 of *The Bailiffs Amendment Act, 1964*, is further amended by striking out "Director" in the amendment of 1964 and inserting in lieu thereof "Registrar".

1960-61, c. 5, s. 9, re-enacted (5) Section 9 of *The Bailiffs Act*, 1960-61, as amended by section 1 of *The Bailiffs Amendment Act*, 1965, is repealed and the following substituted therefor:

- 9. Subject to section 9a, the Registrar may revoke an Revocation appointment where the bailiff,
 - (a) has not complied with this Act or the regulations or *The Costs of Distress Act*; or R.S.O. 1960, c. 74
 - (b) is, in the opinion of the Registrar, incompetent or without capacity to act responsibly as a bailiff.
- 9a.—(1) Where the Registrar proposes to revoke an Notice of appointment, he shall serve notice of his proposal, to revoke together with written reasons therefor, on the bailiff.
- (2) A notice under subsection 1 shall inform the bailiff Notice requiring that he is entitled to a hearing by the Tribunal if he hearing mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where a bailiff does not require a hearing by the Powers of Registrar Tribunal in accordance with subsection 2, the where no Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where a bailiff requires a hearing by the Tribunal Powers of in accordance with subsection 2, the Tribunal shall where appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take.
- (5) The Registrar, the bailiff who has required the hear-Parties ing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
- (6) The Registrar may serve notice under subsection 1 Service on a bailiff personally or by registered mail addressed to his address last known to the Registrar and, where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the bailiff on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Order effective notwithstanding appeal 1966, c. 41 9b. Notwithstanding that a bailiff appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.

1960-61, c. 5, s. 10, subs. 2, amended

(6) Subsection 2 of section 10 of *The Bailiffs Act, 1960-61*, as amended by section 3 of *The Bailiffs Amendment Act, 1964*, is further amended by striking out "Director" in the amendment of 1964 and inserting in lieu thereof "Registrar".

1960-61, c. 5, s. 10*a* (1964, c. 5, s. 4), subs. 2, amended

(7) Subsection 2 of section 10a of *The Bailiffs Act*, 1960-61, as enacted by section 4 of *The Bailiffs Amendment Act*, 1964, is amended by striking out "Director" in the second line and inserting in lieu thereof "Registrar".

1960-61, c. 5, s. 10*a*, subs. 4 (1966, c. 11, s. 1), amended

(8) Subsection 4 of the said section 10a, as enacted by section 1 of *The Bailiffs Amendment Act*, 1966, is amended by striking out "Director" in the first line and in the third line and inserting in lieu thereof in each instance "Registrar".

1960-61, c. 5, s. 10a, subs. 5 (1966, c. 11, s. 1), re-enacted

(9) Subsection 5 of the said section 10a, as enacted by section 1 of *The Bailiffs Amendment Act*, 1966, is repealed and the following substituted therefor:

Investigation

(5) The Registrar may appoint in writing a person to investigate the business of a bailiff as a bailiff and any such person, upon the production of evidence of his appointment under this subsection, may enter between 9 o'clock in the forenoon and 5 o'clock in the afternoon the business premises of the bailiff and examine books, papers, documents and things relating to his business as a bailiff.

Obstruction of investigator

(5a) No person shall obstruct a person appointed to make an investigation under subsection 5 or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

1960-61, c. 5, s. 12, subs. 1, amended

(10) Subsection 1 of section 12 of *The Bailiffs Act, 1960-61* is amended by inserting after "9" in the second line "or 9a".

1960-61, c. 5, amended (11) The Bailiffs Act, 1960-61 is amended by adding thereto the following section:

Matters confidential 13a. Every person employed in the administration of this Act, including any person making an examination under section 10a shall preserve secrecy in respect of all matters that come to his knowledge in the course

of his duties, employment or examination and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (12) Clause d of section 15 of The Bailiffs Act, 1960-61 is c. 5, s. 15, repealed.
- **11.**—(1) Subsection 1 of section 2 of *The Beach Protection* $^{\text{R.S.O. 1960}}_{\text{c. 31, s. 2,}}$ *Act* is amended by striking out "and may suspend or cancel $^{\text{subs. 1, amended}}_{\text{amended}}$ any licence" in the fifth and sixth lines.
- (2) The Beach Protection Act is amended by adding thereto R.S.O. 1960, the following sections:
 - 2a.—(1) The Minister may refuse to issue a licence to Refusal to take sand from a bed, bank, beach, shore, waters, licence bar or flat mentioned in subsection 1 of section 2 that is the property of the Crown on any ground upon which he considers it to be contrary to the public interest to issue the licence.
 - (2) Subject to section 9, where a bed, bank, beach, Idem shore, waters, bar or flat mentioned in subsection 1 of section 2 is owned by a person other than the Crown, the owner or a person who has acquired from the owner the right to remove sand therefrom, is entitled to be issued a licence by the Minister unless the Minister is of opinion that,
 - (a) the taking or removal of sand therefrom is contrary to the public interest on the ground that it will,
 - (i) unduly impair or interfere with the natural state or use of waters or the value or use of property,
 - (ii) likely cause undue erosion of or accretion to lands, or

(iii) likely create a threat to roads, rightsof-way, structures or installations or to health or safety,

in the place from which the sand is to be taken or the area adjacent or near to such place; or

(b) the equipment that the applicant proposes to use for removal of the sand is not proper or suitable for such purpose.

Suspension, etc., of licence

- (3) The Minister may, in accordance with section 2b, refuse to renew or may suspend or revoke a licence,
 - (a) if the licensee has contravened or failed to comply with the terms and conditions of the licence; or
 - (b) on any grounds upon which he might refuse to issue the licence if application was being made for it in the first instance.

Reference to Mining Commissioner

R.S.O. 1960, c. 241

Hearing

- 2b.—(1) Subject to subsection 7, before refusing to issue a licence under subsection 2 of section 2a or to renew any licence or before suspending or revoking any licence, the Minister shall refer the matter to the Mining Commissioner appointed under *The Mining Act* for a hearing and report.
- (2) Pursuant to a reference by the Minister under this section, the Mining Commissioner shall hold a hearing as to whether the licence to which the hearing relates should be issued or renewed or should be suspended or revoked, as the case may be, and the applicant or licensee and such other person as the Commissioner specifies shall be parties to the hearing.

Application of 1971, c. . . . ss. 6-16, 21-23

(3) Sections 6 to 16 and 21 to 23 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section.

Assistance for Commissioner (4) The Mining Commissioner may obtain the assistance of engineers, surveyors or other scientific persons who may under his order view and examine the property in question, and in making his report he may give such weight to their opinion or report as he considers proper.

Report of Commissioner (5) At the conclusion of a hearing under this section, the Mining Commissioner shall make a report to the

Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations, any conclusions of law he has arrived at relevant to his recommendations and his recommendations as to the issue, renewal, suspension or revocation of the licence to which the hearing relates, as the case may be, and shall send a copy of his report to the applicant or licensee to whom it relates.

(6) After considering the report of the Mining Commis-Decision of Minister sioner under this section, the Minister may thereupon refuse to issue or to renew or may suspend or revoke the licence to which the report relates and shall give notice of his decision to the applicant or licensee specifying the reasons therefor.

(7) Notwithstanding subsection 1, the Minister, by notice Provisional suspension, to a licensee and without referring the matter to the etc. Mining Commissioner for a hearing, may provisionally refuse renewal of, or suspend the licensee's licence where the continuation of operations under the licence is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice, giving his reasons therefor, and the Minister shall forthwith thereafter refer the matter to the Mining Commissioner and the provisions of subsections 1 to 6 shall apply.

(3) Section 13 of The Beach Protection Act is repealed and R.S.O. 1960, c. 31, s. 13, the following substituted therefor:

13. Where it is proved in any prosecution under this Act Burden of that the accused has done or committed any act or thing for which a licence or the consent of any person or persons is required under this Act, the burden of proving that the required licence was issued or consent was given shall rest upon the accused.

(4) Subsection 1 of section 14 of *The Beach Protection Act* is R.S.O. 1960, pealed and the following substituted therefor: repealed and the following substituted therefor:

(1) A person to whom a licence to take sand from Royalties property of the Crown in right of Ontario is issued may be required to pay to the Crown, in addition to his licence fee, a fixed sum for every yard of sand removed under the authority of the licence.

(5) Clause d of section 16 of The Beach Protection Act is c. 31, s. 16, pealed. repealed.

R.S.O. 1960, c. 33, s. 5, subss. 1, 2, re-enacted **12.**—(1) Subsections 1 and 2 of section 5 of *The Bees Act* is repealed and the following substituted therefor:

Destruction or treatment of infected bees

- (1) Where an inspector has reasonable grounds for believing that disease of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing,
 - (a) require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires; or
 - (b) require the bee-keeper to destroy by fire, within such period as the order requires, such bees, hives or equipment as in the opinion of the inspector cannot be disinfected.

Treatment of infected bees (2) Where an inspector has reasonable grounds for believing that disease not of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires.

R.S.O. 1960, c. 33, s. 5, subs. 4, re-enacted (2) Subsection 4 of the said section 5 is repealed and the following substituted therefor:

Order

(4) Every order under this section shall be delivered to the bee-keeper by an inspector or mailed by prepaid mail to his last or usual place of abode and shall contain notice to the bee-keeper that he may appeal from the order to the Provincial Apiarist within five days after receipt of the order and where the order is mailed, the bee-keeper shall be deemed to have received the order on the third day after the day of mailing unless he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the order until a later date.

R.S.O. 1960, c. 33, s. 7, subs. 2, re-enacted (3) Subsection 2 of section 7 of *The Bees Act* is repealed and the following substituted therefor:

Appeal

(2) An appeal under this section may be made in writing or orally or by telephone to the Provincial Apiarist, but the Provincial Apiarist may require the grounds for appeal to be specified in writing before the hearing.

- (3) Upon being notified of an appeal, the Provincial Hearing Apiarist shall, after a hearing, confirm, revoke or modify the order appealed against and shall notify the appellant of his decision by prepaid mail and the appellant shall carry out such order as is given by the Provincial Apiarist in his decision.
- (4) The bee-keeper and the inspector who made the Parties order appealed from are parties to an appeal under this section.
- 13.—(1) Section 4 of The Boundaries Act is repealed.

R.S.O. 1960, c. 38, s. 4, repealed

- (2) The Boundaries Act is amended by adding thereto the R.S.O. 1960, c. 38, amended
 - 11a.—(1) The applicant, any person who delivers a state-Parties ment of objections under section 11 and such other person as the director may specify are parties to the proceeding for the confirmation of the survey and plan.
 - (2) Notwithstanding *The Statutory Powers Procedure Act*, Notice of 1971, the publication of and the giving of notice in 1971, c. ... accordance with subsection 1 of section 10 is a sufficient compliance with section 6 of that Act.
- (3) Subsection 6 of section 12 of *The Boundaries Act*, as R.S.O. 1960, enacted by section 5 of *The Boundaries Amendment Act*, subs. 6 (1961-62, is repealed and the following substituted therefor: c. 9, s. 5), re-enacted recent recent recent and recent results of the substituted therefor: c. 9, s. 5), re-enacted recent re
 - (6) In addition to giving notice of his decision to the Publication parties in accordance with *The Statutory Powers Pro-* confirmation cedure Act, 1971, the director shall cause notice of the confirmation to be published in *The Ontario Gazette*.
 - (7) The oral evidence taken before the director at a hear-Recording ing shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon payment of the prescribed fees.
- (4) Subsection 2 of section 13 of *The Boundaries Act* is R.S.O. 1960, c. 38, s. 13, repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) Notice of an appeal under this section shall be served Notice of by the appellant upon the director and the other parties to the proceedings before him within twenty days after the date of the publication in *The Ontario Gazette* of the notice of confirmation.

 R.S.O. 1960.
 - (5) Clause e of section 21 of The Boundaries Act is repealed. repealed

R.S.O. 1960, c. 48, s. 2 (1961-62, c. 13, s. 1), s. 3, repealed 14.—(1) Section 2, as re-enacted by section 1 of *The Certification of Titles Amendment Act, 1961-62*, and section 3 of *The Certification of Titles Act* are repealed.

R.S.O. 1960, c. 48, s. 7, subs. 1, cls. c, d, re-enacted

- (2) Clauses c and d of subsection 1 of section 7 of *The Certification of Titles Act* are repealed and the following substituted therefor:
 - (c) to be served on,
 - (i) the owner, mortgagee or chargee, or his assignee, of land adjoining the land of the applicant,
 - (ii) any person shown in the application to have a claim adverse to the claim of the applicant,
 - (iii) any person other than the applicant shown in the application to be in possession of the land, and
 - (iv) such other person as the Director of Titles may specify.

R.S.O. 1960, c. 48, s. 7, subs. 2 (1961-62, c. 13, s. 2), re-enacted (3) Subsection 2 of section 7 of *The Certification of Titles Act*, as enacted by section 2 of *The Certification of Titles Amendment Act*, 1961-62, is repealed and the following substituted therefor:

Service of notice

(2) A notice to be served on the owner, mortgagee or chargee, or his assignee, of the land adjoining the land of the applicant under subclause i of clause c of subsection 1 is sufficiently served if it is sent by registered mail addressed to him at the address furnished under section 176 of *The Land Titles Act* or section 45 of *The Registry Act* or, where no such address has been furnished, addressed to the solicitor whose name appears on the conveyance, mortgage or charge, or assignment thereof, under which he appears to have an interest in such adjoining land.

Idem

(3) Notice to be served on any person under subclauses ii, iii and iv of clause *c* of subsection 1 may be served in such manner as the Director of Titles considers proper.

R.S.O. 1960, c. 48, s. 8, subs. 2, re-enacted (4) Subsection 2 of section 8 of *The Certification of Titles Act* is repealed and the following substituted therefor:

Hearing

(2) Where a claim adverse to or inconsistent with the claim set out in an application is filed with the

Director of Titles, the Director, before refusing an application in whole or in part, shall afford an opportunity for a hearing.

- (3) The applicant, a person, if any, filing a claim adverse Parties to or inconsistent with the claim set out in the application and such other persons as the Director of Titles may specify are parties to the proceedings in which a hearing is held under this section.
- (4) The oral evidence taken before the Director of Titles Evidence at a hearing shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon the payment of the prescribed fees.
- (5) The Director of Titles, in the place of holding a Reference to hearing under this section to determine the validity Supreme of a claim adverse to or inconsistent with the claim set out in an application, may refer the determination to a judge of the Supreme Court who shall hear and determine the claim on the evidence before him or may direct the trial of an issue.
- (5) Subsection 3 of section 9 of *The Certification of Titles* R.S.O. 1960, c. 48, s. 9. Act is repealed and the following substituted therefor: subs. 3. re-enacted
 - (3) Any person aggrieved by the written findings of the Appeal Director of Titles may, within fifteen days after the date of the mailing of the copies under subsection 2, appeal to the Supreme Court, which may decide the matter on the evidence before it or may direct the trial of an issue.
- (6) The said section 9 is amended by adding thereto the $^{\rm R.S.O.~1960}_{\rm c.~48,~s.~9,}$ following subsection:
 - (6) Sections 17 and 18 of *The Statutory Powers Pro-*Certain provisions cedure Act, 1971 do not apply to proceedings to of 1971, c.... determine an application for a certificate of title under this Act.
- (7) Section 16 of The Certification of Titles Act, as re-enacted R.S.O. 1960, c. 48, s. 16 by subsection 1 of section 3 of The Certification of Titles (1970, c. 37, Amendment Act, 1970, is amended by adding thereto the amended following subsection:
 - (4a) Before refusing a claim for compensation under this Hearing section, in whole or in part, the Director of Land Registration shall hold a hearing, and the person

claiming compensation and such other persons as the Director of Land Registration may specify are parties to the proceedings.

R.S.O. 1960, c. 48, s. 18, cl. *h*, repealed

(8) Clause h of section 18 of The Certification of Titles Act is repealed.

R.S.O. 1960, c. 50, s. 7, re-enacted

15. Section 7 of *The Charitable Gifts Act* is repealed and the following substituted therefor:

Investigation

7.—(1) The Treasurer of Ontario may appoint any person to make an investigation for any purpose related to the administration or enforcement of this Act respecting any interest in any business that has been given to or vested in any person for any religious, charitable, educational or public purpose or respecting any person to or in whom any such interest has been given or vested.

Powers

1971, c. . . .

(2) Every person appointed under subsection 1 to make an investigation has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the investigation as if it were an inquiry under that Act.

1962-63, c. 11, s. 2 (1968, c. 11, s. 2), re-enacted

16.—(1) Section 2 of *The Charitable Institutions Act,* 1962-63, as re-enacted by section 2 of *The Charitable Institutions Amendment Act,* 1968, is repealed and the following substituted therefor:

Approval of corporations

R.S.O. 1960,

2. Where the Lieutenant Governor in Council is satisfied that any corporation without share capital having objects of a charitable nature to which Part III of *The Corporations Act* applies or that is incorporated under a general or special Act of the Parliament of Canada is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a charitable institution and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act.

1962-63, c. 11, s. 3, re-enacted

(2) Section 3 of *The Charitable Institutions Act, 1962-63*, as amended by section 3 of *The Charitable Institutions Amendment Act, 1968*, is repealed and the following substituted therefor:

- 3.—(1) Where the Lieutenant Governor in Council is Approval of buildings satisfied that a building is suitable for providing accommodation as a charitable institution in accordance with this Act and the regulations, he may approve such building as a charitable institution for the maintenance and operation of which assistance may be given under this Act.
- (2) An approval given under subsection 1 may take Effective date of effect on any date fixed by the Lieutenant Governor approval in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the charitable institution.
- (3) Section 10 of The Charitable Institutions Act, 1962-63 is 1962-63, c. 11, s. 10, repealed and the following substituted therefor:
 - 10.—(1) Subject to this section, any approval given under Suspension this Act may be suspended by the Minister or re-tion of voked by the Lieutenant Governor in Council on the recommendation of the Minister if,

- (a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or
- (b) the approval would be refused if application were being made for it in the first instance.
- (2) Subject to subsection 6 and except where an Hearing approval is suspended or revoked with the consent of the approved corporation, before suspending, or before recommending to the Lieutenant Governor in Council revocation of, an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Department of Social and Family Services, appointed by the Minister.
- (3) Sections 4 to 16 and 21 to 24 of The Statutory Application of 1971, c. . . Powers Procedure Act, 1971 apply with respect to a hearing under this section.

Report to

(4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected.

Decision of Minister (5) After considering a report made to him under this section, the Minister may thereupon suspend or recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension of approval (6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

1962-63, c. 11, s. 11, cl. *n*, repealed (4) Clause n of section 11 of The Charitable Institutions Act, 1962-63 is repealed.

R.S.O. 1960, c. 52, s. 5, subs. 1, cl. *e*, repealed 17.—(1) Clause e of subsection 1 of section 5 of The Charities Accounting Act is repealed.

R.S.O. 1960, c. 52, s. 6, subs. 4, re-enacted (2) Subsection 4 of section 6 of *The Charities Accounting* Act is repealed and the following substituted therefor:

Powers of Public Trustee (4) In making an investigation directed under subsection 3, the Public Trustee has and may exercise any of the powers conferred on him by this Act and any of the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the investigation as if it were an inquiry under that Act.

R.S.O. 1960, c. 54, s. 1, amended 18.—(1) Section 1 of *The Children's Boarding Homes Act*, as amended by section 1 of *The Children's Boarding Homes Amendment Act*, 1962-63, is further amended by relettering clause a as clause aa and by adding thereto the following clauses:

(a) "Board" means the Day Nursery Review Board established under *The Day Nurseries Act*, 1966; 1966, c. 37

(da) "occupier" means the occupier of a children's boarding home who applied for registration of the home under this Act.

- (2) Subsections 1 and 2 of section 6 of *The Children's Board*-R.S.O. 1960. ing *Homes Act* are repealed and the following substituted subss. 1, 2, therefor:
 - (1) Subject to section 8, upon application in the pre-Registration scribed form and upon payment of the prescribed fee, the Registrar shall record in a register kept by him for the purpose the name and address of the applicant, the name, if any, and address of the children's boarding home, the date of registration and such other particulars as the regulations prescribe.
 - (2) Subject to section 8a, every registration remains in Idem force for twelve months and, upon application therefor in the prescribed form and upon payment of the prescribed fee, is renewable for a period of twelve months.
- (3) Subsection 2 of section 7 of *The Children's Boarding* $^{\rm R.S.O.~1960}_{\rm c.~54,~8.~7.}$ *Homes Act* is repealed and the following substituted therefor: $^{\rm subs.~2.}_{\rm re-enacted}$
 - (2) Where the applicant for registration is dissatisfied Review of with the maximum number of children referred to in of Registrar subsection 1 fixed by the Registrar, he may by written notice given to the Registrar and the Board require a hearing by the Board and the Board shall appoint a time for and hold a hearing.
 - (3) Pursuant to a hearing under subsection 1, the Board Board may affirm the maximum number of children determined by the Registrar or may determine such other number of children that may be lodged, boarded or cared for at any one time in the registered premises as it considers proper.
 - (4) Where a children's boarding home is used at any Offence time, except in the case of emergency, to lodge, board or care for a greater number of children than the maximum finally determined under this section, the occupier or, where the occupier is a corporation,

the corporation and every officer, director or servant thereof concerned in the management of the home are severally guilty of an offence and on summary conviction are liable to a fine of not more than \$25 for every day during which such use is continued.

R.S.O. 1960, c. 51, s. 8, re-enacted (4) Section 8 of *The Children's Boarding Homes Act* is repealed and the following substituted therefor:

Refusal to register

- 8. Subject to section 8b, the Registrar may refuse to register a children's boarding home if in his opinion,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to operate a children's boarding home in a responsible manner in accordance with this Act and the regulations;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the home will not be operated in accordance with this Act and the regulations; or
 - (c) the building or accommodation in which it is proposed to operate the home does not comply with the requirements of this Act and the regulations.

Revocation or refusal to review registration

- 8a. Subject to section 8b, the Registrar may refuse to renew or may revoke registration of a children's boarding home if in his opinion,
 - (a) the registrant or, where the registrant is a corporation, any officer, director or servant thereof, has contravened or has knowingly permitted any person under his control or direction or associated with him in the operation of the home to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the carrying on of the home and such contravention occurred through lack of competence or with intent to evade the requirements of such provision;
 - (b) the building or accommodation in which the children's boarding home is operated does not comply with the requirements of this Act or the regulations; or

- (c) the children's boarding home is operated in a manner that is prejudicial to the safety or welfare of the children boarded therein.
- 8b.—(1) Where the Registrar proposes to refuse to register Notice of —(1) Where the Registrar proposes to refuse to register proposal or to renew or to revoke registration under this Act, to refuse to register, he shall serve notice of his proposal, together with etc. written reasons therefor, on the applicant or registrant.

(2) A notice under subsection 1 shall inform the applicant Property or registrant that he is entitled to a hearing by the hearing Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him. notice in writing requiring a hearing to the Registrar and the Board and he may so require such a hearing.

- (3) Where an applicant or registrant does not require a Powers of Registrar hearing by the Board in accordance with subsection where no 2, the Registrar may carry out the proposal stated in his notice under subsection 1
- (4) Where an applicant or registrant requires a hearing Powers of Board by the Board in accordance with subsection 2, where hearing the Board shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Registrar.

8c.—(1) Service of a notice under subsection 1 of section Service of notice 8b on an applicant or registrant may be made personally or by registered mail addressed to the applicant or registrant at his address last known to the Registrar and, where it is served by registered mail, it shall be deemed to have been served on the third day after the day of mailing unless the applicant or registrant establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive it until a later date.

(2) The Board may extend the time for requiring a hearing Extension of time for under section 8b, either before or after expiration of requiring hearing the time fixed therein, where it is satisfied that there are prima facie grounds for granting relief to the applicant or registrant pursuant to a hearing and

that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension.

Continuation of registration pending renewal

- (3) Subject to section 8e where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision.

Application of 1966, c. 37

8d. Sections 5g and 5h of *The Day Nurseries Act*, 1966 apply *mutatis mutandis* to proceedings by the Board under this Act and to appeals therefrom.

Provisional suspension, etc.

8e. Notwithstanding section 8b, the Registrar by notice to a registrant and without a hearing, may provisionally refuse renewal of or suspend registration of the registrant where the operation of the children's boarding home is, in the Registrar's opinion, an immediate threat to the safety or welfare of the children boarded therein and the Registrar so states in such notice giving his reasons therefor, and thereafter the provisions of section 8b apply as if the notice given under this section were a notice of a proposal to revoke the registration under subsection 1 of section 8b.

R.S.O. 1960, c. 54, s. 14, cl. *i*, repealed (5) Clause i of section 14 of The Children's Boarding Homes Act is repealed.

1962-63, c. 14, s. 2 (1968, c. 13, s. 2), re-enacted

19.—(1) Section 2 of The Children's Institutions Act, 1962-63, as re-enacted by section 2 of The Children's Institutions Amendment Act, 1968, is repealed and the following substituted therefor:

Approval of corporations

R.S.O. 1960, c. 71 2. Where the Lieutenant Governor in Council is satisfied that any corporation without share capital having objects of a charitable nature to which Part III of *The Corporations Act* applies or that is incorporated under a general or special Act of the Parliament of Canada is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a children's institution and that its affairs

are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act.

- (2) Section 3 of The Children's Institutions Act, 1962-63, 1962-63, c. 14, s. 3, as amended by section 3 of The Children's Institutions Amend-re-enacted ment Act. 1968, is repealed and the following substituted therefor:
 - 3.—(1) Where the Lieutenant Governor in Council is Approval of children's satisfied that a building is suitable for providing institutions accommodation as a children's institution in accordance with this Act and the regulations, he may approve such building as a children's institution for the maintenance and operation of which assistance may be given under this Act.
 - (2) An approval given under subsection 1 may take Effective date of effect on any date fixed by the Lieutenant Governor approval in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the children's institution.
- (3) Section 10 of The Children's Institutions Act, 1962-63 is c. 14, s. 10, repealed and the following substituted therefor:
 - 10.—(1) Subject to this section, any approval given Suspension and revocaunder this Act may be suspended by the Minister tion of or revoked by the Lieutenant Governor in Council approvals on the recommendation of the Minister if,

- (a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or
- (b) the approval would be refused if application were being made for it in the first instance.
- (2) Subject to subsection 6 and except where an Hearing approval is suspended or revoked with the consent of the approved corporation, before suspending, or before recommending to the Lieutenant Governor

in Council revocation, of an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Department of Social and Family Services, appointed by the Minister.

Application of 1971, c. . . .

(3) Sections 4 to 16 and 21 to 24 of *The Statutory Powers Procedure Act*, 1971, apply with respect to a hearing under this section.

Report of Minister (4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected.

Decision of Minister (5) After considering a report made to him under this section, the Minister may thereupon suspend or may recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension of approval (6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

1962-63, c. 14, s. 11, cl. *q*, repealed (4) Clause q of section 11 of The Children's Institutions Act, 1962-63 is repealed.

1968-69, c. 10, ss. 5, 6, re-enacted **20.**—(1) Sections 5 and 6 of *The Children's Mental Health Centres Act, 1968-69* are repealed and the following substituted therefor:

Issue of licence

5.—(1) Subject to subsection 2, any person who applies in accordance with this Act and the regulations for a licence to operate a centre and pays the prescribed fee is entitled to be issued such licence on reasonable terms and conditions by the Director.

- (2) Subject to section 9, the Director may refuse to issue Refusal a licence if in his opinion,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to operate a centre in a responsible manner in accordance with this Act and the regulations;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of any of its officers or directors, affords reasonable grounds for belief that the centre will not be operated in accordance with this Act and the regulations;
 - (c) the premises or facilities in which it is proposed to operate the centre do not comply with the requirements of this Act or the regulations;
 - (d) the applicant is not in a position to provide services in accordance with this Act and the regulations; or
 - (e) there is no public need for the centre in the area where the applicant proposes to establish, operate or maintain a centre.
- 6. Subject to section 9, the Director may revoke a Revocation licence under this Act if in his opinion,
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has knowingly permitted any person under his control or direction or associated with him in the operation of the centre to contravene,
 - (i) any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the carrying on of the centre, or
 - (ii) any term or condition of the licence,

and such contravention occurred through lack of competence or with intent to evade the requirements of such provision or such term or condition;

- (b) the premises or facilities in which the centre is operated do not comply with the requirements of this Act; or
- (c) the centre is operated in a manner that is prejudicial to the health, safety or welfare of the children cared for therein.

1968-69, c. 10, ss. 8-12, re-enacted; ss. 13, 14, repealed

(2) Sections 8, 9, 10, 11, 12, 13, and 14 of *The Children's Mental Health Centres Act, 1968-69* are repealed and the following substituted therefor:

Hearing re terms of licence 8.—(1) Where the Director issues a licence under this Act and the licensee is dissatisfied with the terms and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Board require a hearing by the Board, and the Board shall appoint a time for and hold a hearing.

Decision of Board (2) Pursuant to a hearing under subsection 1, the Board may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper and such terms and conditions shall be terms and conditions of the licence.

Proposal to refuse to issue or revoke 9.—(1) Where the Director proposes to refuse to issue or to revoke a licence under this Act, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Board and he may so require such a hearing.

Powers of Director where no hearing (3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of Board where hearing (4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director

to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

(5) The Board may extend the time for the giving of Extension of time for notice requiring a hearing by an applicant or licensee requiring hearing under this section either before or after expiration of such time where it is satisfied that there are brima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and the Board may give such directions as it considers proper consequent upon the extension.

- (6) Where, within the time prescribed therefor or, if no continuation time is prescribed, before expiry of his licence, a pending renewal licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.
- 10.—(1) The Director, the applicant or licensee who has Parties required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this Act.
- (2) Notice of a hearing under section 9 shall afford Notice of hearing the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (3) An applicant or licensee who is a party to proceed-Examination ings under section 9 shall be afforded an opportunity mentary evidence to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence (5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

1971, c. . . .

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure* Act, 1971.

Only members at hearing to participate in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence (8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to court

11.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Record to be filed in court (2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

- (3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under be heard this section.
- (4) An appeal under this section may be made on Powers of court on questions of law or fact or both and the court may appeal affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Director to take any action which the Board may direct him to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Director or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- 12. Notwithstanding section 9, the Director, by notice Provisional to a licensee and without a hearing, may provisionally suspend the licensee's licence where the operation of the centre under the licence is, in the Director's opinion, an immediate threat to the health. safety or welfare of the children cared for therein and the Director so states in such notice giving his reasons therefor, and thereafter the provisions of section 9 apply as if the notice given under this section were a notice of a proposal to revoke the licence under subsection 1 of section 9.

- (3) Section 15 of The Children's Mental Health Centres Act, 1968-69, c, 10, s, 15. 1968-69 is amended by striking out "14" in the second line amended and inserting in lieu thereof "12".
- (4) Subsection 3 of section 17 of *The Children's Mental Health* 1968-69, c. 10, s. 17. *Centres Act*, 1968-69 is amended by inserting after "time" subs. 3, amended where it appears the third time in the fifth line "upon the production of his appointment under this section".
- (5) Section 18 of *The Children's Mental Health Centres Act*, ¹⁹⁶⁸⁻⁶⁹, c. 10, s. 18, 1968-69 is repealed and the following substituted therefor: re-enacted
 - 18. Except where otherwise provided, any notice re-Service quired by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

1968-69, c. 10, s. 21, cl. b, re-enacted

- (6) Clause b of section 21 of The Children's Mental Health Centres Act, 1968-69 is repealed and the following substituted therefor:
 - (b) providing for the remuneration and expenses of members of the Licensing Board of Review;
 - (ba) providing for the issuing or renewal of licences or provisional licences for centres and prescribing the terms and conditions of licences.

1968-69, c. 11, s. 1, amended

- **21.**—(1) Section 1 of *The Collection Agencies Act, 1968-69* is amended by relettering clause *a* as clause *aa* and by adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;

(da) "dwelling" means any premises or any part thereof occupied as living accommodation.

1968-69, c. 11, ss. 6-8, re-enacted, ss. 9-21, repealed (2) Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of *The Collection Agencies Act, 1968-69* are repealed and the following substituted therefor:

Registration

- 6.---(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or

- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.
- (2) A registration is subject to such terms and con-Conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.
- 7.--(1) Subject to section 8, the Registrar may refuse Refusal to register to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 6.
- (2) Subject to section 8, the Registrar may refuse to Refusal to renew or may suspend or revoke a registration for suspend any reason that would disentitle the registrant to or revoke registration under section 6 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.
- 8.--(1) Where the Registrar proposes to refuse to grant Notice of or renew a registration or proposes to suspend or to refuse revoke a registration, he shall serve notice of his or revoke proposal, together with written reasons therefor, on the applicant or registrant.
- (2) A notice under subsection 1 shall inform the applicant Notice requiring or registrant that he is entitled to a hearing by hearing the Tribunal if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where an applicant or registrant does not require a Powers of Registrar hearing by the Tribunal in accordance with sub- where no hearing section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where an applicant or registrant requires a hearing Powers of Tribunal by the Tribunal in accordance with subsection 2, where hearing the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or, to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation

(7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation of registration pending renewal

- (8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue.
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order effective, stay 1966, c. 41 (9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.

1968-69, c. 11, s. 25, subs. 1, cl. a, re-enacted

- (3) Clause a of subsection 1 of section 25 of *The Collection Agencies Act*, 1968-69 is repealed and the following substituted therefor:
 - (a) is entitled to free access to all books of accounts, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

1968-69, c. 11, s. 26, re-enacted (4) Section 26 of *The Collection Agencies Act, 1968-69* is repealed and the following substituted therefor:

26. The Minister may by order appoint a person to Investigation make an investigation into any matter to which of Minister this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister, and for the purposes of the investigation the person making it has the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies 1971, c. ... to such investigation as if it were an inquiry under that Act.

26a.--(1) Where, upon a statement made under oath, the Investigation by Director Director believes on reasonable and probable grounds that any person has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the Criminal Code (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act.

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an Powers of investigation investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subjectmatter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

1971, c. . . .

and for the purposes of the inquiry, the person making the investigation has the powers conferred upon a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction of investigator

- (3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.
- (4) Where a provincial judge is satisfied, upon an ex parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him. to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Idem

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

- (7) The Minister or Director may appoint any expert to Appointment examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.
- 26b.—(1) Every person employed in the administration Matters of this Act, including any person making an inquiry, inspection or an investigation under section 23, 24, 25, 26 or 26a shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.
 - (2) No person to whom subsection 1 applies shall be Testimony required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.
- (5) Section 27 of *The Collection Agencies Act*, 1968-69 is ¹⁹⁶⁸⁻⁶⁹, amended by striking out "26" in the second line and in-amended serting in lieu thereof "26a".
- (6) Subsection 1 of section 28 of *The Collection Agencies* 1968-69, *c.* 11, s. 28, *Act*, 1968-69 is repealed and the following substituted therefor: subs. 1, re-enacted
 - (1) Where,

Order to refrain from dealing with assets

- (a) an investigation of any person has been ordered under section 26a; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b, may in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the Bankruptcy Act (Canada), The Judicature Act, The Corporations Act, The Business Corporations Act, 1970 or the Winding-up Act (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1960, cc. 197, 71, 1970, c. 25, R.S.C. 1952, cc. 14, 296

1968-69, c. 11, s. 28, amended

Cancellation of direction or registration

- (7) The said section 28 is amended by adding thereto the following subsection:
 - (5) Any person referred to in clause a or b of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4, may, at any time apply to the Tribunal for cancellation in whole or in part of the direction or registration, and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

1968-69, c. 11, s. 30, subs. 1, amended (8) Subsection 1 of section 30 of *The Collection Agencies Act*, 1968-69 is amended by inserting after "other" in the fourth line "similar".

1968-69, c. 11, s. 30, subs. 2, re-enacted

(9) Subsection 2 of section 30 of *The Collection Agencies Act*, 1968-69 is repealed and the following substituted therefor:

- (2) Where the Registrar believes on reasonable and probable grounds that any of the material referred to in subsection 1 is harsh, false, misleading or deceptive, the Registrar may alter, amend, restrict or prohibit the use of such material, and section 8 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.
- (10) Section 34 of *The Collection Agencies Act*, 1968-69 is ¹⁹⁶⁸⁻⁶⁹, c. 11, s. 34, repealed and the following substituted therefor:
 - 34. Where the Registrar believes on reasonable and probadvertising able grounds that a collection agency is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material, and section 8 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.
- (11) Subsection 2 of section 35 of *The Collection Agencies* $^{1968-69}_{c. 11, s. 35}$, *Act, 1968-69* is repealed and the following substituted therefor: $^{\text{subs. 2}}_{\text{re-enacted}}$
 - (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the deemed day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
- (12) Clause d of section 38 of The Collection Agencies Act, 1968-69, 2. 11, 8. 38, 1968-69 is amended by striking out "or to any such person, cl. d, amended document or material" in the second and third lines.
- **22.**—(1) Section 17 of *The Construction Safety Act*, 1961-62, $^{1961-62}_{c. 18, s. 17}$, as amended by section 8 of *The Construction Safety Amendment* re-enacted *Act*, 1965, is repealed and the following substituted therefor:
 - 17.—(1) Where an inspector is of opinion that any pro- Order vision of this Act or the regulations is being contravened, he may give such order in writing to such person or persons as is necessary to ensure compliance with such provision and such order shall specify that

it shall be carried out forthwith or before the expiry of such period as is specified therein and,

- (a) where the order specifies that it be carried out forthwith, all work on the project or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with; or
- (b) where the order specifies the period within which it is to be carried out and it is not carried out within that period, all work on the project or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with.

Appeal

(2) Any person who considers himself aggrieved by an order of an inspector made under subsection 1 may appeal to the chief officer who shall hear and dispose of the appeal as promptly as is practicable but the bringing of such appeal does not affect the operation of the order appealed from pending disposition of the appeal.

Powers of chief officer

- (3) After hearing an appeal under this section, the chief officer may substitute his opinion for that of the inspector and,
 - (a) if he is of opinion that no provision of this Act or the regulations is being contravened, may rescind the order of the inspector; or
 - (b) if he is of opinion that any provision of this Act or the regulations is being contravened,
 - (i) may affirm the order of the inspector, or
 - (ii) may give a new order to the appellant in substitution therefor and for such purpose the chief officer has the powers of an inspector under subsection 1 and clauses a and b of subsection 1 apply to the order of the chief officer as if it were an order of an inspector under subsection 1.

- (4) Where an order is given by an inspector or the chief Affixing a officer under subsection 1 or 3, a copy thereof may be to project affixed to the project or any part thereof, and no person, except the inspector or the chief officer, shall remove such copy unless authorized by the inspector or chief officer.
- (5) Every person to whom an order is given under this Compliance Act shall comply with it in accordance with its terms.
- (2) The Construction Safety Act, 1961-62 is amended by ¹⁹⁶¹⁻⁶², renumbering section 17a, as enacted by section 9 of The amended Construction Safety Amendment Act, 1965, as section 17c and by adding thereto the following sections:
 - 17a.—(1) Any person who considers himself aggrieved Appeals from by a decision of an inspector under this Act or the inspector regulations, other than an order under section 17, may appeal to the chief officer who shall hear and dispose of the appeal.
 - (2) On an appeal under this section, the chief officer may Powers of substitute his findings or opinions for those of the inspector who made the decision appealed from and may affirm or reverse such decision or make a new decision in substitution therefor and for such purpose has all the powers of the inspector and the decision of the chief officer shall stand in the place of and have like effect under this Act and the regulations as the decision of the inspector.
 - 17b.—(1) An appeal under section 17 or 17a may be made How appeal in writing or orally or by telephone, but the chief officer may require the grounds for appeal to be specified in writing before the hearing.
 - (2) The appellant, the inspector from whom the appeal Parties is taken and such other persons as the chief officer may specify are parties to an appeal under section 17 or 17a.
- (3) Subsection 2 of section 22 of *The Construction Safety Act*, ¹⁹⁶¹⁻⁶², as enacted by section 15 of *The Construction Safety* subs. ² (1965, c. 19, *Amendment Act*, 1965, is repealed and the following substituted therefor:
 - (2) Every person to whom an order of an inspector or of Penalty the chief officer is given under section 17,
 - (a) who contravenes or who knowingly permits any person under his direction and control to contravene such order; or

(b) who carries on work or knowingly permits any person under his direction or control to carry on work in contravention of subsection 1 or 3 of section 17,

is guilty of an offence and on summary conviction, in addition to the penalties mentioned in subsection 1, is liable to a fine of not more than \$100 a day for every day upon which the offence continued.

1966, c. 23, s. 1, amended

- 23.—(1) Section 1 of The Consumer Protection Act, 1966, as amended by section 1 of The Consumer Protection Amendment Act, 1967, section 1 of The Consumer Protection Amendment Act, 1968 and section 1 of The Consumer Protection Amendment Act, 1968-69, is further amended by adding thereto the following clauses:
 - (ab) "business premises" does not include a dwelling;

.

(ea) "dwelling" means any premises or any part thereof occupied as living accommodation.

1966, c. 23, ss. 5-7 (1968-69, c. 14, s. 2), re-enacted; ss. 8-14 (1968-69, c. 14, s. 2), repealed

(2) Sections 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of *The Consumer Protection Act*, 1966, as re-enacted by section 2 of *The Consumer Protection Amendment Act*, 1968-69, are repealed and the following substituted therefor:

Registration

- 5.—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or

- (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.
- (2) A registration is subject to such terms and con-Conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.
- 6.—(1) Subject to section 7, the Registrar may refuse to Refusal to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5.
- (2) Subject to section 7, the Registrar may refuse to Refusal to renew or may suspend or revoke a registration for suspend or any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.
- 7.—(1) Where the Registrar proposes to refuse to grant proposed or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.
- (2) A notice under subsection 1 shall inform the applicant Notice requiring or registrant that he is entitled to a hearing by the hearing Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where an applicant or registrant does not require Registrar a hearing by the Tribunal in accordance with sub-where no section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where an applicant or registrant requires a hearing Powers of by the Tribunal in accordance with subsection 2, where the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar

to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary

(7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation of registration pending renewal

- (8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order effective,

1966, c. 41

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.

1966, c. 23, ss. 14*a*-14 f (1968-69, c. 14, s. 2), repealed (3) Sections 14a, 14b, 14c, 14d, 14e and 14f of The Consumer Protection Act, 1966, as enacted by section 2 of The Consumer Protection Amendment Act, 1968-69, are repealed.

1966, c. 23, s. 14*j* (1968-69, c. 14, s. 2), subs. 1, cl. *a*, re-enacted

(4) Clause a of subsection 1 of section 14j of The Consumer Protection Act, 1966, as enacted by section 2 of The Consumer Protection Amendment Act, 1968-69, is repealed and the following substituted therefor:

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection;

(5) Subsection 2 of section 14m of The Consumer Protection 1966, c. 23, s. 14m (1968-64, 1966, as enacted by section 2 of The Consumer Pro-69, c. 14, s. 2), tection 4 mendment Act, 1968, 60, is repealed and the following tection Amendment Act, 1968-69, is repealed and the following re-enacted

substituted therefor:

- (2) Where service is made by registered mail, the service When shall be deemed to be made on the third day after deemed the day of mailing unless the person on whom service made is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
- (6) Clause d of subsection 2 of section 140 of The Consumer $^{1966, c. 23}_{s. 140 (1968-69, Protection Act, 1966, as enacted by section 2 of The Consumer <math>^{c. 14, s. 2)}_{subs. 2}$. Protection Amendment Act, 1968-69, is amended by striking out cl. d "or to any such person, document or material" in the second and third lines.
- (7) Part I of The Consumer Protection Act, 1966, as re-1966, c. 23, enacted by section 2 of The Consumer Protection Amendment (1968-69, c. 14, Act, 1968-69, is amended by adding thereto the following amended section:
 - 14p.—(1) Each person employed in the administration of Matters confidential this Act, including any person making an inspection under section 14h, 14i or 14j shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment or inspection and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

1966. c. 23, s. 31 (1968-69, c. 14, s. 3), re-enacted

(8) Section 31 of *The Consumer Protection Act, 1966*, as re-enacted by section 3 of *The Consumer Protection Amendment Act, 1968-69*, is repealed and the following substituted therefor:

False advertising 31. Where the Registrar believes on reasonable and probable grounds that a seller or lender is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

1966, c. 23, s. 33, cl. *l*, repealed

(9) Clause l of section 33 of The Consumer Protection Act, 1966, as relettered by section 6 of The Consumer Protection Amendment Act, 1967, is repealed.

R.S.O. 1960, c. 67, s. 10, subs. 1, re-enacted

24. Subsection 1 of section 10 of *The Co-Operative Loans Act* is repealed and the following substituted therefor:

Inspection of books, etc.

(1) The Treasurer may appoint a person to inspect the books, accounts and property and to inquire into the affairs of any co-operative association that has a loan under this Act and a person so appointed has for the purpose of the inspection and inquiry the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inspection or inquiry as if it were an inquiry under that Act.

1971. c. . . .

s. 1, cl. aa (1968-69 c. 23, s. 1, subs. 1)

re-enacted

- 25.—(1) Clause aa of section 1 of The Day Nurseries Act, 1966, as enacted by subsection 1 of section 1 of The Day Nurseries Amendment Act, 1968-69, is repealed and the following substituted therefor:
 - (aa) "Board" means the Day Nursery Review Board established under section 5.

1966, c. 37, s. 5, ss. 5*a*-5*i* (1968-69 c. 23, s. 5), re-enacted (2) Section 5, as amended by section 4 of The Day Nurseries Amendment Act, 1968-69, and sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h and 5i, as enacted by section 5 of The Day Nurseries Amendment Act, 1968-69, of The Day Nurseries Act, 1966, are repealed and the following substituted therefor:

- 5.—(1) The Lieutenant Governor in Council may Bay Nursery appoint a board, consisting of not more than five Board, appointment members to be known as the Day Nursery Review Board and may designate one member of the Board as chairman.
- (2) Three members of the Board constitute a quorum. Quorum
- (3) The members of the Board shall be paid such re-Remuneration muneration and expenses as the Lieutenant Governor in Council may from time to time determine.
- 5a.—(1) No person shall operate a day nursery without Licence a licence therefor issued by the Director and the Director may prescribe in the licence reasonable terms and conditions to the operation of the day nursery.
- (2) Subject to section 5b, any person who applies in Issue accordance with this Act and the regulations for a licence to operate a day nursery and pays the prescribed fee is entitled to be issued a licence by the Director subject to reasonable terms and conditions.
- (3) Subject to section 5c, a licensee who makes application Renewal in accordance with this Act and the regulations for renewal of his licence and pays the prescribed fee is entitled to a renewal of his licence by the Director.
- 5b. Subject to section 5e, the Director may refuse to issue Refusal a licence if in his opinion,
 - (a) the applicant, or where the applicant is a corporation, its officers or directors, is or are not competent to operate a day nursery in a responsible manner in accordance with this Act and the regulations;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the day nursery will not be operated in accordance with this Act and the regulations; or
 - (c) the building or accommodation in which it is proposed to operate the day nursery does not comply with the requirements of this Act and the regulations.

Refusal to renew or revocation

- 5c. Subject to section 5e, the Director may refuse to renew or may revoke a licence if in his opinion,
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has knowingly permitted any person under his control or direction or associated with him in the operation of the day nursery to contravene,
 - (i) any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the carrying on of the day nursery; or
 - (ii) any term or condition of the licence,

and such contravention occurred through lack of competence or with intent to evade the requirements of such provision or term or condition;

- (b) the building or accommodation in which the day nursery is operated does not comply with the requirements of this Act and the regulations; or
- (c) the day nursery is operated in a manner that is prejudicial to the safety or welfare of the children cared for therein.

Review of terms of licence by Board

5d.—(1) Where the Director issues a licence and the licensee is dissatisfied with the terms and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Board require a hearing by the Board and the Board shall appoint a time for and hold a hearing.

Decision of Board (2) Pursuant to a hearing under subsection 1, the Board may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper, and terms and conditions so prescribed shall be terms and conditions of the licence.

Notice of proposal to refuse to issue or to revoke 5e.—(1) Where the Director proposes to refuse to issue or renew or to revoke a licence under this Act, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

(2) A notice under subsection 1 shall inform the requiring applicant or licensee that he is entitled to a hearing hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Board and he may so require such a hearing.

(3) Where an applicant or licensee does not require a Powers of Director hearing by the Board in accordance with subsection 2, where no hearing the Director may carry out the proposal stated in his notice under subsection 1.

(4) Where an applicant or licensee requires a hearing by Powers of the Board in accordance with subsection 2, the where Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

5f.—(1) Service of a notice under section 5e may be made $\frac{\text{Service of }}{\text{notice}}$ personally or by registered mail addressed to the applicant or licensee at his address last known to the Director and, where the notice is served by registered mail, it shall be deemed that the notice was served on the third day after the day of mailing unless the applicant or licensee establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive it until a later date.

(2) The Board may extend the time for requiring Extension of a hearing under section 5e, either before or after requiring thearing expiration of the time fixed therein, where it is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as it considers proper consequent upon the extension.

(3) Subject to section 5i, where, within the time Continuation of licence prescribed therefor or, if no time is prescribed, pending before expiry of his license, a licensee has applied renewal for renewal of his licence and paid the prescribed fee his licence shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision.

Parties

5g.—(1) The Director, the applicant or licensee who has applied for the hearing and such other persons as are specified by the Board are parties to proceedings before a Board under this Act.

Members at hearing not to have taken part in investigation, etc.

(2) A member of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Notice of hearing (3) Notice of a hearing under section 5e shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the renewal or retention of the licence.

Examination of documentary evidence

(4) An applicant or licensee who is a party to proceedings under section 5d or 5e shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Pro*cedure Act, 1971.

1971, c. . . .

- (7) No member of the Board shall participate in a Only members at hearing to decision of the Board pursuant to a hearing unless participate in he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 5h.—(1) Any party to the proceedings before the Board Appeal may appeal from its decision or order to the Supreme Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be section, the Board shall forthwith file with the Registrar of the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made, which, together with the transcript of evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.
- (3) The Minister is entitled to be heard, by counsel Minister or otherwise, on the argument of an appeal under to be heard this section.
- (4) The Supreme Court may affirm the decision of Powers of the Board appealed from or may rescind it and make such new decision as the court considers proper and, for such purpose, the court may exercise all the powers of the Board after a hearing before it and may substitute its opinion for that of the Board.
- 5i. Notwithstanding section 5e, the Director, by notice Provisional to a licensee and without a hearing, may provisionally refuse renewal of or suspend the licensee's licence where the operation of the day nursery under the licence is, in the Director's opinion, an immediate threat to the safety or welfare of the children cared for therein and the Director so states in such notice giving his reasons therefor, and thereafter the provisions of section 5e apply as if the notice given under this section were a notice of a proposal to revoke the licence under subsection 1 of section 5e.
- (3) Clause h of section 7 of The Day Nurseries Act, 1966 1966, c. 37, s. 7, cl. h, repealed.
- **26.**—(1) Section 1 of The Dead Animal Disposal Act, R.S.O. 1960, as amended by section 1 of The Dead Animal Disposal Amend-amended

ment Act, 1965, is further amended by relettering clause a as clause b and by adding thereto the following clauses:

- (a) "Board" means the Dead Animal Disposal Licence Review Board established by this Act;
- (ea) "licence" means a licence under this Act.

R.S.O. 1960, c. 88, s. 5, subss. 2, 3 (1961-62, c. 28, s. 3), repealed (2) Subsections 2 and 3 of section 5 of *The Dead Animal Disposal Act*, as enacted by section 3 of *The Dead Animal Disposal Amendment Act*, 1961-62 and amended by subsections 2 and 3 of section 2 of *The Dead Animal Disposal Amendment Act*, 1965, are repealed.

R.S.O. 1960, c. 88, amended

(3) The Dead Animal Disposal Act is amended by adding thereto the following sections:

Licence, issue

- 5a.—(1) The Director shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business that would be authorized by the licence;
 - (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law;
 - (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business authorized by the licence in accordance with this Act and the regulations; or
 - (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

Renewal

(2) Subject to section 5b, the Director shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.

- 5b.—(1) The Director may refuse to renew or may sus-Refusal to renew, pend or revoke a licence if, after a hearing, he is of suspension opinion that,
 - (a) the premises, facilities and equipment used in the business carried on pursuant to the licence do not comply with this Act and the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection
 with the business carried on pursuant to the
 licence to contravene any provision of this
 Act or the regulations or of any other Act
 or the regulations thereunder or of any law
 applying to the carrying on of such business
 or the conditions for licencing and such contravention warrants such refusal to renew,
 suspension or revocation of the licence; or
 - (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.
- (2) Notwithstanding subsection 1, the Director, by notice Provisional to a licensee and without a hearing, may provisionally etc. refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or of the public and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.
- (3) Subject to subsection 2, where, within the time Continuation prescribed therefor or, if no time is prescribed, before pending expiry of his licence, a licensee has applied for renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.
- 5c.—(1) The notice of a hearing by the Director under Notice of section 5a or section 5b shall afford to the applicant or licensee a reasonable opportunity to show or to

achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence (2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by Director 5d. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Review Board established 5e.—(1) A board to be known as the "Dead Animal Disposal Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

Term of office (2) A member of the Board shall hold office for not more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Remunera-

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to Board 5f.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.

- (2) The Board may extend the time for the giving of Extension notice by an applicant or licensee under subsection 1, for appeal either before or after expiration of such time, where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.
- (3) Where an applicant or licensee appeals to the Board Disposal of appeal under this section, the Board shall hear the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.
- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending disposal Director, unless the Director otherwise directs, the of appeal decision of the Director is effective until the appeal is disposed of.
- 5g.—(1) The Director, the appellant and such other per-Parties sons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members after a hearing shall not have taken part prior to the decision making hearing in any investigation or consideration of the have taken part in the law taken part in the have taken part in the law taken part prior to the law ta subject-matter of the hearing and shall not com-investigation, municate directly or indirectly in relation to the etc. subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Board at a Recording of evidence hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings of fact hearing shall be based exclusively on evidence ad-

1971, c. . . .

missible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision (5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all persons so present participate in the decision.

Appeal to

5h.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of Court.

Minister entitled to be heard (2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 88, s. 8, subs. 3, amended (4) Subsection 3 of section 8 of *The Dead Animal Disposal Act*, as amended by section 3 of *The Dead Animal Disposal Amendment Act*, 1965, is further amended by adding at the commencement thereof "Subject to subsection 4".

R.S.O. 1960, c. 88, s. 8, amended

(5) The said section 8 is amended by adding thereto the following subsection:

- (4) Except under the authority of a warrant under sec-Power to enter tion 14 of *The Summary Convictions Act*, the Direc-dwelling tor or an inspector shall not enter any part of a R.S.O. 1960, dwelling without the consent of the occupant.
- 27. The Department of Correctional Services Act, 1968 is 1968, c. 27, amended by adding thereto the following section:
 - 34a. The Statutory Powers Procedure Act, 1971 does not Application apply to proceedings for the discipline of inmates in correctional institutions or to their transfer under section 11 or for the authorization under section 19 or 20 of temporary absences of inmates or to proceedings of the Board notwithstanding anything in that Act.
- **28.** The Department of Financial and Commercial Affairs ¹⁹⁶⁶, c. 41, Act, 1966 is amended by adding thereto the following sections:
 - 8d.—(1) This section applies to proceedings before the Application Tribunal.
 - (2) Members of the Tribunal holding a hearing shall not Members have taken part in any investigation or considera-hearing not tion of the subject-matter of the hearing beforetaken part in the hearing and shall not communicate directly or investigation, indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.
 - (3) Where a hearing by the Tribunal is required,

Notice of hearing

- (a) notice of the hearing shall afford to the person requiring the hearing a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements concerning the subject-matter of the hearing; and
- (b) the person requiring the hearing shall be afforded an opportunity to examine before the

hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording of evidence

(4) The oral evidence taken before the Tribunal at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the payment of such fees therefor as the Lieutenant Governor in Council may prescribe by regulation.

Findings of fact

1971, c. ...

(5) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision

(6) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and except with the consent of the parties no decision of the Tribunal shall be given unless all members so present participate in the decision.

Extension of time for giving notice

(7) Notwithstanding any limitation of time for the giving of any notice requiring a hearing by the Tribunal fixed by or under any Act, and where it is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for applying for the extension, the Tribunal may extend the time for giving the notice either before or after expiration of the time so limited, and may give such directions as it considers proper consequent upon such extension.

Appeal from decision of Tribunal 8e.—(1) Any party to proceedings before the Tribunal may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Record to be filed in court

(2) Where any party appeals from a decision of the Tribunal, the Tribunal shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Tribunal's record, shall constitute the record in the appeal.

- (3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under to be this section.
- (4) An appeal under this section may be made on Powers of questions of law or fact or both and the court may appeal exercise all the powers of the Tribunal, and for such purpose the court may substitute its opinion for that of the Registrar or of the Tribunal, or the court may refer the matter back to the Tribunal for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- **29.**—(1) Subsection 2 of section 9 of *The Department of* R.S.O. 1960, *Labour Act* is repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) For the purpose of procuring such information or Public for the purpose of assisting the Department in carry-by Board ing out any of the provisions of section 6, the Minister may authorize the Board or any members of the Board to conduct a public inquiry and the Board and the member or members thereof acting under such authority have, for the purpose of conducting such public inquiry, the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to such public inquiry as if 1971, c. ... it were an inquiry under that Act.
- (2) Section 11 of *The Department of Labour Act*, as re-R.S.O. 1960, enacted by section 2 of *The Department of Labour Amend*-(1962-63, c. 33, ment Act, 1962-63, is amended by adding thereto the following amended subsections:
 - (3) Any person who considers himself aggrieved by an Appeal order made by an inspector under this section may appeal to the chief inspector or chief officer having supervision over the inspector or if there is no such chief inspector or chief officer, to the Deputy Minister who shall designate a person to hear and determine the appeal.
 - (4) A chief inspector or chief officer to whom an appeal Hearing is made under this section or the person designated under subsection 3 to hear an appeal shall hear and dispose of the appeal as promptly as is practicable, but the bringing of such appeal does not affect the operation of the order appealed from pending disposition of the appeal.

How appeal made (5) An appeal under this section may be made in writing or orally or by telephone, but the person to whom the appeal is made may require the grounds for appeal to be specified in writing before the hearing.

Parties

(6) The appellant, the inspector from whom the appeal is taken and such other persons as the person to whom the appeal is made may specify are parties to an appeal under this section.

Powers of person hearing appeal (7) The person hearing an appeal under this section may substitute his findings or opinions for those of the inspector who made the order appealed from and may affirm or rescind the order or make a new order in substitution therefor and has all the powers of the inspector for such purpose and the decision or order on the appeal shall stand in the place of and have a like effect under this Act and the regulations as the decision or order of the inspector.

1967, c. 23, s. 7, re-enacted

30.—(1) Section 7 of *The Department of Social and Family Services Act, 1967* is repealed and the following substituted therefor:

Regulations governing occupation and operation of institutions

- (1) Where any institution or organization is operated or managed for charitable objects or purposes and where,
 - (a) the persons operating and managing the institution so request; or
 - (b) the institution or organization procures funds for its operation from the public and the Lieutenant Governor in Council considers it necessary to ensure proper application of such funds; or
 - (c) any approval, licence or registration for the operation of the institution or organization required by any Act administered by the Minister, has been refused or revoked; or
 - (d) the Lieutenant Governor in Council considers it necessary in the best interests of those residing in or relying on the services of such institution or organization and for their immediate protection,

the Lieutenant Governor in Council may make regulations,

- (e) designating such institution or organization to be subject to the control of the Minister;
- (f) governing the operation and activities of any institution or organization designated under clause e and the procuring of funds from the public and the application thereof by such institution or organization;
- (g) authorizing the Minister to operate and manage any such institution or organization designated under clause e and for that purpose, notwithstanding sections 25 and 40 of The Expropriations Act, 1968-69, authorizing 1968-69, c. 36 the Minister to immediately occupy and operate, or arrange for the occupation and operation by a person or organization designated by him, any premises occupied or used by such institution or organization, but the rights of the owner under that Act, except the right to possession, shall not be affected thereby.
- (2) Where the Minister has been authorized under this Warrant for section to occupy any premises, if the persons in occupation occupation refuse to permit the Minister or persons authorized by him for that purpose to enter upon and occupy the premises or resist such entry, the Minister may apply ex parte to a judge of the county or district court of the county or district in which the premises are situate for a warrant directing the sheriff to put the Minister or persons authorized by him in occupation of the premises and the judge, upon being satisfied that the Minister is so authorized to occupy the premises and of such refusal or resistance, may issue such warrant and the sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof.
- (3) Except with the consent of the person operating Period of and managing an institution, the Minister shall not occupy and operate or arrange for the occupation and operation of the premises of an institution under subsection 1 for a period longer than a year, but the Lieutenant Governor in Council may from time to time extend such period.
- **31.**—(1) Section 1 of *The Department of Tourism and* ^{1966, c. 44, *Information Act, 1966* is amended by adding thereto the ^{amended} following clauses:}

(ba) "licence issuer" means the tourist industry officer of the Department of Tourism and Information or other official of the Department designated as such by the Minister;

(da) "operator" means the resident manager or other person in charge of a tourist establishment.

.

1966, c. 44, s. 5, re-enacted (2) Section 5 of *The Department of Tourism and Information Act, 1966* is repealed and the following substituted therefor:

Investiga-

5. The Minister may by order appoint one or more persons to investigate, inquire into and report to him upon any matter connected with or affecting the tourist industry, including accommodation, facilities, or services offered to tourists or the advertising or publicizing thereof, or of the resources, attractions or advantages of Ontario, and, for the purposes of the investigation and inquiry, any person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the investigation as if it were an inquiry under that Act.

1971, c. . . .

1966, c. 44, s. 6, re-enacted (3) Section 6 of The Department of Tourism and Information Act, 1966 is repealed and the following substituted therefor:

Construction permit required

6.—(1) No person shall construct a tourist establishment or make an addition to or a structural alteration in a tourist establishment except in accordance with a permit therefor in the prescribed form issued under this Act.

Issue of permit

- (2) Subject to subsection 3, a person is entitled to be issued a permit for the construction of, or the making of additions to or structural alterations in, a tourist establishment upon filing with the proper licence issuer,
 - (a) an application therefor in the prescribed form;and
 - (b) plans and specifications of the proposed tourist establishment showing that the establishment as constructed, added to or altered will comply with the requirements of this Act and the regulations and of any other law, regulation or by-law applicable to the establishment.

- (3) A licence issuer may, after hearing the applicant, Refusal refuse to issue a permit under this section if the plans and specifications for the tourist establishment or for additions to or alterations in a tourist establishment do not comply with clause b of subsection 2.
- (4) A permit under this section expires one year after Expiry of the date it was issued.
- (5) No holder of a permit shall construct a tourist Plans and specifications establishment or make an addition to or structural alteration in a tourist establishment except in accordance with the plans and specifications in relation to which the permit was granted.
- 6a.—(1) No person shall operate a tourist establish-Operator's ment except in accordance with a licence in the required prescribed form issued therefor under this Act.
- (2) Subject to section 6b, a person is entitled to be Issue of issued a licence to operate a tourist establishment upon application therefor in the prescribed form to the proper licence issuer, accompanied by such information as may be prescribed by the regulations, and payment of the prescribed fee.
- (3) A licence issued under this section,

Term of

- (a) becomes effective on the first day of April of the year in which it is issued or the date on which it is issued, whichever is the later; and
- (b) expires on the 31st day of March next following unless sooner suspended or cancelled.
- 6b.—(1) A licence issuer may, after a hearing, refuse Refusal to issue a licence to operate a tourist establishment if,
 - (a) the tourist establishment does not comply with the requirements of this Act or the regulations or any other law, regulation or by-law applicable to the establishment;
 - (b) a licence to operate a tourist establishment was previously issued to the applicant and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or

(c) the owner, lessee or operator of the establishment has been convicted of any offence for conduct that affords reasonable grounds for believing that the tourist establishment will not be operated in accordance with law and with honesty and integrity.

Transmission of report, etc., to Minister and applicant

- (2) Within forty-eight hours after a refusal to issue a licence, the licence issuer shall transmit,
 - (a) to the Minister the application and a report setting forth the reasons for the refusal; and
 - (b) to the applicant by registered mail, a copy of the report and a notification that a refund has been authorized and will be issued from the office of the Provincial Treasurer in due course.

Renewal of licence

6c.—(1) Subject to section 6d, the holder of a licence to operate a tourist establishment is entitled to a renewal thereof upon application therefor in the prescribed form to the proper licence issuer and payment of the prescribed fee.

Application

- (2) Application for renewal of a licence to operate a tourist establishment shall be made,
 - (a) where the establishment is operated throughout the year, before expiry of the current licence; or
 - (b) where the establishment is operated for only part of the year, before the 15th day of May in each year.

Continuation of registration pending renewal

- (3) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.
 - (a) until the renewal is granted; or
 - (b) where he is served with notice of a hearing by the licence issuer, until the decision of the licence issuer has become final.

Suspension, etc., of licence 6d.—(1) A licence issuer may, after a hearing, refuse to renew or suspend or cancel a licence to operate a tourist establishment if,

- (a) the tourist establishment does not comply with the requirements of this Act or the regulations or of any other law, regulation or by-law applicable to the establishment;
- (b) the owner, lessee or operator of the establishment,
 - (i) has contravened any provision of this Act or the regulations, or
 - (ii) has been convicted of any offence for conduct that affords reasonable grounds for believing that the tourist establishment will not be operated in accordance with law or with honesty and integrity; or
- (c) the establishment, or any part thereof, is declared a public place under subsection 2 of section 42 of *The Liquor Control Act*,

 R.S.O. 1960, c. 217

notwithstanding that the grounds for refusal, suspension or cancellation existed at the time the licence was issued.

- (2) A notice of a hearing under subsection 1 relating to a Notice of refusal to renew or the suspension or cancellation of a licence shall be served personally or by registered mail on the licensee and shall afford to him a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.
- (3) A licence issuer shall afford to an applicant or licensee Examination who will be affected by a decision pursuant to a documentary hearing by the licence issuer, or to his representative, an opportunity to examine, before the hearing, any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.
- 6e. Where a licensed tourist establishment is sold Transfer or legal ownership thereof passes, the purchaser or other person to whom the legal ownership has passed is entitled to obtain a transfer of the licence from the proper licence issuer upon application therefor in the prescribed form and payment of the prescribed fee if he would have been entitled to be issued the licence if he were making an initial application

therefor and surrenders the existing licence, and the provisions of section 6b apply to his application.

Appeal to judge

6f.—(1) Where a licence issuer has,

- (a) refused to issue or renew a licence;
- (b) suspended or cancelled a licence; or
- (c) refused to transfer a licence,

the owner, lessee or operator of the tourist establishment to which the licence relates may, within fifteen days after receipt of the decision of the licence issuer, appeal to the judge of the county or district court of the county or district in which the tourist establishment is situate by sending a notice of appeal specifying the grounds of his appeal by registered mail to the Deputy Minister of Tourism and Information and filing a copy thereof in the office of the clerk of the court.

Parties

(2) The Minister represented by such person as he may nominate and the person filing the notice of appeal are parties to an appeal under this section.

Hearing de novo

(3) Where an appeal is brought under this section, the judge shall appoint a time and a place for and shall hear the appeal by way of a hearing *de novo* and may by order direct the licence issuer to take such action as the judge considers the licence issuer ought to take in accordance with this Act and the regulations and as the judge deems proper.

Burden of establishing grounds for refusal, etc. (4) Where the appeal is from a decision of a licence issuer refusing to renew or transfer or suspending or cancelling a licence, the Minister or his representative shall, on the hearing of the appeal, be deemed to be the complainant, and the burden of establishing the grounds for the refusal to renew or transfer or the suspension or cancellation shall be upon him, and the appellant shall be deemed to be the respondent.

Extension of time for hearing (5) A judge to whom an appeal may be taken under this section may extend the time for making the appeal, either before or after expiration of the time fixed therefor, where he is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

- (6) The oral evidence taken before the judge on an appeal Recording shall be recorded, and if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.
- (7) The findings of fact of a judge on an appeal shall Findings be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971.* 1971, c. ...
- 6g.—(1) Any party to proceedings before a judge under Appeal from section 6f may appeal from the decision or order of the judge judge to the Supreme Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge, if it is not part of the record of the judge, shall constitute the record in the appeal.
- (3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under be heard this section.
- (4) The Supreme Court may, on the appeal, exercise all Decision the powers of the judge appealed from or the court may refer the matter back to the judge for a rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- (4) Section 9 of *The Department of Tourism and Informa*-1966, c. 44, tion Act, 1966 is amended by adding thereto the following amended subsection:
 - (3) Nothing in this section authorizes an inspector to Entry of rented and enter any premises or dwelling unit forming part of occupied a tourist establishment that is rented and actually with consent occupied by a tourist or member of the public without the consent of the occupant, except under the authority of a warrant issued under section 14 of The Summary Convictions Act.

 R.S.O. 1960, c. 387
- (5) The Department of Tourism and Information Act, 1966 1966, c. 44, is amended by adding thereto the following section:
 - 9a.—(1) Notwithstanding section 6d, an inspector, by Provisional notice delivered to the operator of a tourist establish- of licence

ment, may provisionally suspend the licence to operate the establishment if he believes on reasonable grounds that the continued operation of the establishment will be dangerous to the safety or health of any person and, upon delivery of such notice to the operator, the suspension takes effect.

Hearing

(2) Where an inspector has provisionally suspended a licence to operate a tourist establishment under subsection 1, he shall forthwith notify the licence issuer by whom the licence was issued and the licence issuer shall, as soon as is practicable, hold a hearing and determine whether the licence should be suspended or cancelled under this Act, and the provisions of sections 6d, 6f and 6g apply to such proceedings and to the decision of the licence issuer.

1966, c. 44, s. 10, subs. 3, re-enacted

(6) Subsection 3 of section 10 of *The Department of Tourism* and *Information Act, 1966* is repealed and the following substituted therefor:

Acquisition of land R.S.O. 1960, c. 338, 1968-69, c. 36

(3) Lands may be acquired for the purposes of this section under *The Public Works Act* and, where expropriated, *The Expropriations Act*, 1968-69 applies.

1966, c. 44, s. 12, subs. 1, cl. *a*, re-enacted

- (7) Clause a of subsection 1 of section 12 of *The Department* of *Tourism and Information Act, 1966* is repealed and the following substituted therefor:
 - (a) providing for the issuance of permits and licences and prescribing the terms and conditions of permits or licences or any class thereof.

1966, c. 44, s. 12, subs. 1, cl. *m*, repealed

(8) Clause m of subsection 1 of the said section 12 is repealed.

1962-63, c. 36, s. 1, amended

- **32.**—(1) Section 1 of *The Deposits Regulation Act, 1962-63* is amended by adding thereto the following clauses:
 - (aa) "business premises" does not include any dwelling;
 - (da) "dwelling" means any premises or any part thereof occupied as living accommodation.

1962-63, c. 36, s. 5, subs. 5, re-enacted

(2) Subsection 5 of section 5 of *The Deposits Regulation Act*, 1962-63 is repealed and the following substituted therefor:

Powers on inspection

(5) For purposes relevant to the subject-matter of an investigation under subsection 4, the representative

of the Commission may inquire into and examine the affairs of the person or corporation whose affairs are being investigated and may,

- (a) upon production of his authorization from the Commission, enter at any reasonable time the business premises of such person or corporation and examine books, papers, documents and things relevant to the subject-matter of the investigation;
- (b) inquire into,
 - (i) negotiations, investigations, transactions, loans, borrowings and payments to, by, or on behalf of or in relation to or connected with such person or corporation and into any property, assets or things owned, acquired or alienated in whole or in part by such person or corporation or any person or company acting on his or its behalf that are relevant to the subject-matter of the investigation, and
 - (ii) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or corporation and any other person or corporation and the relationship that may at any time exist or have existed between such person or corporation and any other person or corporation by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.
- (6) No person shall obstruct a person making an investi- Offence gation under subsection 4 or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Powers under 1971, c. . . . , Pt. II (7) For the purposes of an investigation under this section, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

Search warrant (8) Where a provincial judge is satisfied, upon an exparte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person or corporation whose affairs are being investigated and that relate to the subjectmatter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 5, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the judge, by the order, authorizes the person making the investigation, to make the search at night.

Removal of books, etc.

(9) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 5 or subsection 8 relating to the person or corporation whose affairs are being investigated and that relate to the subjectmatter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person or corporation whose affairs are being investigated.

Admissibility of copies

(10) Any copy made as provided in subsection 9 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

- (11) The Commission may appoint any expert to examine Appointment books, papers, documents or things examined under clause a of subsection 5 or subsection 8.
- (3) The Deposits Regulation Act, 1962-63 is amended by $^{1962-63}_{amended}$, adding thereto the following section:
 - 5a. Every person employed in the administration of this Matters confidential Act, including any person making an investigation or inquiry under this Act shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, investigation or inquiry and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations, or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.
- (4) Clause f of section 8 of The Deposits Regulation Act, $_{\rm s.~8,~cl.~f,}^{1962-63}$, c. 36, $_{\rm repealed}^{1962-63}$ is repealed.
- **33.** Section 14 of The Dog Tax and Live Stock and Poultry R.S.O. 1960, Protection Act, as amended by section 9 of The Dog Tax and re-enacted Live Stock and Poultry Protection Amendment Act, 1965, is repealed and the following substituted therefor:
 - 14.—(1) The council of a municipality may conduct an Inquiry to inquiry in order to ascertain the owner of a dog owner of dog that has killed or injured live stock or poultry within the municipality.
 - (2) The council of a municipality for the purposes of Powers on an inquiry under subsection 1 has the powers of a commission under Part II of *The Public Inquiries*Act, 1971, which Part applies to such inquiry as if it 1971, c.... were an inquiry under that Act.
- **34.**—(1) Section 1 of *The Edible Oil Products Act* is R.S.O. 1960, amended by adding thereto the following clauses:
 - (aa) "chief inspector" means the chief inspector appointed under this Act;

1965, c. 72

- (ab) "Commission" means The Milk Commission of Ontario established by The Milk Act, 1965;
- (da) "licence" means a licence under this Act.

R.S.O. 1960, c. 115, s. 4, re-enacted (2) Section 4 of *The Edible Oil Products Act* is repealed and the following substituted therefor:

Licence required

4. No person shall manufacture or sell by wholesale an edible oil product to which this Act applies without a licence therefor from the chief inspector.

R.S.O. 1960, c. 115, amended (3) The Edible Oil Products Act is amended by adding thereto the following sections:

Licence, issue

- 4a.—(1) The chief inspector shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing,
 - (a) he finds that;
 - (i) the applicant was previously the holder of a licence and such licence was cancelled under this Act; or
 - (ii) the applicant or, where the applicant is a corporation, any officer, director or servant thereof or any person who will be in any way associated with the applicant in the operations pursuant to the licence was convicted of an offence under this Act,

and in his opinion the grounds for such cancellation or conviction warrant a refusal to issue the licence, or

- (b) he is of opinion that,
 - (i) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law; or
 - (ii) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

- (2) Subject to section 4b, the chief inspector shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 4b.—(1) The chief inspector may refuse to renew or may Refusal, suspend or cancel a licence if, after a hearing, he suspension or cancel finds that,
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction or associated with him in connection with his or its operations as a licensee to contravene any provision of this Act or the regulations or a term or condition of the licence or has been convicted of an offence under this Act and such contravention or conviction in his opinion warrants such refusal to renew, suspension or cancellation of the licence; or
 - (b) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.
 - (2) Notwithstanding subsection 1, the chief inspector, Provisional by notice to a licensee and without a hearing, may etc. provisionally refuse to renew or suspend the licensee's licence where in the opinion of the chief inspector it is necessary to do so for the immediate protection of the safety or health of any person or the public and he so states in such notice giving his reasons therefor, and thereafter the chief inspector shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.
 - (3) Subject to subsection 2, where, within the time Continuation prescribed therefor or, if no time is prescribed, pending before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal.

Notice of hearing 4c.—(1) The notice of a hearing by the chief inspector under section 4a or section 4b shall afford the applicant or licensee reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence (2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by chief inspector 4d. Where the chief inspector has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but he shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Appeal to Commission 4e.—(1) Where the chief inspector refuses to issue or renew, or suspends or cancels a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Commission within fifteen days after receipt of the decision of the chief inspector, appeal to the Commission.

Extension of time for appeal

(2) The Commission may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Disposal of appeal (3) Where an applicant or licensee appeals to the Commission under this section, the Commission shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and as the Commission considers proper, and, for such purpose, the Commission may substitute its opinion for that of the chief inspector.

- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending chief inspector, unless the chief inspector otherwise of appeal directs, the decision of the chief inspector is effective until the appeal is disposed of.
- 4f.—(1) The chief inspector, the appellant and such other Parties persons as the Commission may specify are parties to the proceedings before the Commission under this Act.
- (2) Members of the Commission assigned to render a Members decision after a hearing shall not have taken part decision not prior to the hearing in any investigation or contaken part sideration of the subject-matter of the hearing and gation, etc. shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.
- (3) The oral evidence taken before the Commission at a Recording hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Commission pursuant to Findings a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure* 1971, c. ... Act, 1971.
- (5) No member of the Commission shall participate in a Only members at decision of the Commission pursuant to a hearing unless hearing to he was present throughout the hearing and heard the indecision evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.
- 4g.—(1) Any party to the hearing before the Commission Appeal to court may appeal from the decision of the Commission to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister entitled to otherwise, on the argument of an appeal under this be heard section.

Record to be filed in court (3) The chairman of the Commission shall certify to the Registrar of the Supreme Court the record of the proceedings before the Commission which, together with a transcript of the evidence before the Commission, if it is not part of the Commission's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Commission or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Commission for reconsideration by the Commission as the court considers proper, and the court may substitute its opinion for that of the chief inspector or the Commission.

Effect of decision of Commission pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commission, unless the Commission otherwise directs, the decision of the Commission is effective until the appeal is disposed of.

R.S.O. 1960, c. 115, s. 6, subs. 1, re-enacted (4) Subsection 1 of section 6 of *The Edible Oil Products Act* is repealed and the following substituted therefor:

Inspectors, etc., appointment

(1) The Lieutenant Governor in Council may appoint a chief inspector and such inspectors and analysts as are deemed necessary for the administration and enforcement of this Act and the regulations.

1966, c. 50, s. 2, re-enacted **35.**—(1) Section 2 of *The Elderly Persons Centres Act,* 1966, as amended by section 2 of *The Elderly Persons Centres Amendment Act,* 1970, is repealed and the following substituted therefor:

Approval of corporation

2.—(1) Where the Lieutenant Governor in Council is satisfied that any corporation is, with assistance in accordance with this Act, financially capable of establishing, maintaining and operating a centre and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation as a corporation for the purpose of the Act.

Approval of building

(2) Where the Lieutenant Governor in Council is satisfied that a building or premises is suitable for providing accommodation as a centre in accordance with this Act and the regulations, he may approve such building or premises as a centre for the purposes of this Act.

- (3) An approval given under subsection 2 or section 2a Effective may take effect on any date fixed by the Lieutenant approval Governor in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under subsection 1 to the corporation maintaining and operating the centre or the date of the approval given under section 2a to the municipal by-law establishing the centre, as the case may be.
- (2) Section 6a of The Elderly Persons Centres Act, 1966, 1966, c. 50, as enacted by section 6 of The Elderly Persons Centres Amend- (1970, c. 82, ment Act, 1970, is repealed and the following substituted re-enacted therefor:
 - 6a.—(1) Subject to this section, any approval given under Suspension this Act may be suspended by the Minister or revoked of approval by the Lieutenant Governor in Council on the recommendation of the Minister if,
 - (a) any director, officer or servant of the approved corporation or municipality has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or
 - (b) the approval would be refused if application were being made for it in the first instance.
 - (2) Subject to subsection 6 and except where an ap-Hearing proval is suspended or revoked with consent, before suspending, or before recommending to the Lieutenant Governor in Council revocation of an approval to a corporation or to a centre operated by an approved corporation given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person appointed by the Minister.
 - (3) Sections 4 to 16 and 21 to 24 of *The Statutory Powers* Application *Procedure Act, 1971* apply with respect to a hearing under this section.
 - (4) The person conducting a hearing under this section Report shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of

fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations and his recommendations as to the suspension or revocation of the approval and shall send a copy of his report to the persons affected.

Decision of Minister (5) After considering a report made to him under this section, the Minister may thereupon suspend or recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension

(6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the health or safety of any person or to the public and the Minister so states in such notice giving his reasons therefor; and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

1966, c. 50, s. 7, cl. k, repealed

(3) Clause k of section 7 of The Elderly Persons Centres Act, 1966 is repealed.

R.S.O. 1960, c. 121, s. 3, re-enacted

36.—(1) Section 3 of *The Employment Agencies Act* is repealed and the following substituted therefor:

Licence, issue

- 3.—(1) Subject to section 6, an applicant for a licence to carry on a class of employment agency who,
 - (a) applies in the prescribed form;
 - (b) pays the prescribed fee;
 - (c) furnishes such security as is prescribed by the regulations; and
 - (d) complies with the qualifications prescribed by the regulations,

is entitled to be issued such licence by the supervisor.

Renewal

(2) Subject to section 6a, a licensee who applies for a renewal of his licence in accordance with this Act and the regulations and pays the prescribed fee is entitled to renewal of his licence by the supervisor.

- (2) Section 6 of *The Employment Agencies Act* is repealed R.S.O. 1960, and the following substituted therefor:
 - 6. Subject to section 6b, the supervisor may refuse to Refusal issue a licence to an applicant who otherwise has licence complied with the requirements of section 3 if in his opinion,
 - (a) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the employment agency in accordance with law and with honesty and integrity; or
 - (b) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the carrying on of the employment agency; or
 - (c) where the applicant is a corporation,
 - (i) the past conduct of its officers or directors affords reasonable grounds for belief that the employment agency will not be carried on by it in accordance with law or with honesty and integrity, or
 - (ii) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the carrying on of the employment agency.
 - 6a. Subject to section 6b, the supervisor may refuse to Suspension, renew or may suspend or revoke a licence if in etc. his opinion,
 - (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has knowingly permitted any person under his control or direction or associated with him in the carrying on of the employment agency carried on pursuant to the licence to contravene any provision of this Act or of the regulations or of any other Act or regulations applying to the carrying on of the employment agency and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or

(b) the licence would be refused under section 6 if the licensee were making application for it in the first instance.

Notice of proposal to refuse or revoke 6b.—(1) Where the supervisor proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee informing him that he has a right to a hearing by a judge of the county or district court of the county or district in which he intended to carry on or carried on his employment agency under the licence if he applies to the judge within fifteen days after service of the notice by the supervisor, and the applicant or licensee may within such time apply to the judge for a hearing.

Powers of supervisor where no hearing (2) Where an applicant or licensee does not apply for a hearing in accordance with subsection 1, the supervisor may carry out the proposal stated in his notice under subsection 1.

Powers of judge where hearing (3) Where an applicant or licensee applies to a judge for a hearing in accordance with subsection 1, the judge shall appoint a time for and hold the hearing and, on the application of the supervisor at the hearing, may by order direct the supervisor to carry out his proposal or refrain from carrying out his proposal and to take such action as the judge considers the supervisor ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the supervisor.

Service of

(4) The supervisor may serve notice under subsection 1 personally or by registered mail addressed to the applicant or licensee at his address last known to the supervisor and where notice is served by registered mail the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for hearing (5) A judge to whom application is made by an applicant or licensee for a hearing under subsection 1 may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie*

grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

- (6) Where, within the time prescribed therefor or, if no continuation of licences time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the supervisor proposes to refuse to grant the renewal, until the time for applying to a judge for a hearing expires and, where a hearing is applied for, until the judge has made his order.
- 6c.—(1) The supervisor, the applicant or licensee who Parties has applied for the hearing and such other persons as the judge may specify are parties to the proceedings before a judge under section 6b.
- (2) Notice of a hearing under section 6b shall afford to the when notice applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (3) An applicant or licensee who is a party to proceedings Examination under section 6b shall be afforded an opportunity documentary to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- (4) The oral evidence taken before the judge at a hearing Recording of evidence shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.
- (5) The findings of fact of a judge pursuant to a hearing Findings shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971.* 1971, c. . .
- 6d.—(1) Any party to proceedings before a judge may Appeal from appeal from the decision or order of the judge to judge the Supreme Court in accordance with the rules of court.

Record to be filed in court (2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Representations by Minister (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Decision

(4) The Supreme Court may, on the appeal, exercise the powers of the judge appealed from and for such purpose the court may substitute its opinion for that of the supervisor or of the judge or the court may refer the matter back to the judge for a hearing, in whole or in part, in accordance with such directions as the court considers proper.

Provisional order of supervisor 6e. Notwithstanding section 6b, the supervisor, by notice to a licensee, and without a hearing, may provisionally refuse renewal of or suspend the licensee's licence where the carrying on of the employment agency under the licence is, in the supervisor's opinion, an immediate threat to the interests of persons dealing with the agency or to the public interest and the supervisor so states in the notice giving his reasons therefor, and thereafter sections 6b, 6c and 6d apply as if the notice given under this section were a notice of a proposal to revoke the licence served under subsection 1 of section 6b.

R.S.O. 1960, c. 121, s. 9, cl. *l*, repealed

(3) Clause l of section 9 of The Employment Agencies Act is repealed.

1968, c. 35, s. 5 (1970, c. 45, s. 3), cl. *a*, re-enacted

- **37.**—(1) Clause a of section 5 of The Employment Standards Act, 1968, as re-enacted by section 3 of The Employment Standards Amendment Act, 1970, is repealed and the following substituted therefor:
 - (a) summon and examine witnesses and require them to produce such documents and things as he considers requisite to the full investigation and consideration of the matter or thing he is authorized to inquire into and for such purpose he has the powers of a commission in Part II of *The Public Inquiries Act*, 1971, which Part applies to his inquiry as if it were an inquiry under that Act.

1971, c. ...

- (2) The said section 5 is amended by adding thereto the 1968 , c. 35, s. 5 following subsections:
 - (2) Before making a determination under subsection 1, Hearing the Director or the person designated to do so shall afford to the persons who will be affected by the determination an opportunity for a hearing.
 - (3) Where a group of persons having the same interest Persons to will be affected by a determination under subsec-groups tion 1 and such group of persons have not specified a person to represent all persons in the group, the Director or the person designated to make the determination may, if he considers it proper, specify one or more persons to represent all persons constituting the group in the proceedings in which such determination is to be made and all persons so represented are parties to the decision.
- (3) Subsections 3 and 4 of section 20 of *The Employment* 1968, c. 35, Standards Act, 1968 are repealed and the following substituted subss. 3, 4, therefor:
 - (3) The board shall investigate the amount of moneys Recomowing to an employee under section 19 and, after a to Director hearing, shall make recommendations to the Director as to the determination he should make and the Director may, after considering such recommendations, make his determination.
 - (4) Sections 4 to 18 and 20 to 24 of *The Statutory* Application *Powers Procedure Act, 1971* apply to the proceedings of the board as if it were a tribunal exercising a statutory power of decision and for such purpose the recommendations of the board shall be deemed to be a decision of the board.
- (4) Subsections 4, 5 and 6 of section 28 of *The Employment* 1968, c. 35. Standards Act, 1968, as re-enacted by section 8 of *The Employ*-c. 45, s. 8), ment Standards Amendment Act, 1970, are repealed and the re-enacted following substituted therefor:
 - (4) Where an employer has applied under subsection 3 Review of for a review of a determination made under subsection 1, the Minister shall designate a person to review the determination and such person may, after hearing the parties, vary, rescind or confirm the amount payable by the employer and for such purpose the person designated may exercise any of the powers conferred by clauses c to h of section 5.

Appeal

- (5) An employer who is dissatisfied with a decision made under subsection 4 may appeal from the decision to the Supreme Court, within fifteen days from the day he received the decision, upon the grounds that the decision is,
 - (a) erroneous in point of law; or
 - (b) in excess of jurisdiction or otherwise unauthorized.

Stated case

(6) Upon the request of an employer desiring to appeal to the Supreme Court, the person who made the decision under subsection 4 shall state a case setting forth the facts as found and the grounds upon which the decision is questioned.

1968, c. 35, s. 28 (1970, c. 45, s. 8), subs. 8, re-enacted

(5) Subsection 8 of the said section 28 is repealed and the following substituted therefor:

Order of

(8) The Supreme Court shall hear and determine the appeal in accordance with the rules of court and may make such order as the court considers proper or may refer the matter or any part thereof to the person who made the decision appealed from to review the determination with such directions as the court considers proper.

Minister entitled to be heard (8a) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

1966, c. 54, s. 1, amended

- **38.**—(1) Section 1 of *The Family Benefits Act, 1966* is amended by inserting therein the following clause:
 - (da) "board of review" means the board of review established under this Act.

1966, c. 54, s. 3, subs. 1, re-enacted (2) Subsection 1 of section 3 of *The Family Benefits Act*, 1966 is repealed and the following substituted therefor:

Duties of Director (1) The Director shall perform such duties and exercise such powers under this Act as are conferred or imposed by this Act and the regulations.

1966, c. 54, s. 3, amended

(3) The said section 3, as amended by section 1 of *The Family Benefits Amendment Act*, 1968, is further amended by adding thereto the following subsection:

- (4) Any decision made by a person performing duties or Decision exercising powers of the Director under subsection 2 Director or 3 shall be deemed to be a decision of the Director for the purposes of this Act.
- (4) Subsection 1 of section 7 of *The Family Benefits Act*, 1966, c. 54, 1966 is amended by striking out "An allowance shall and amended other benefits may be provided in accordance with the regulations to any person in need who is resident in Ontario as determined by the regulations and" in the first, second, third and fourth lines and inserting in lieu thereof "An allowance shall and other benefits may be provided in accordance with the regulations to any person in need who is resident in Ontario and"
- (5) The Family Benefits Act, 1966 is amended by adding 1966, c. 54, thereto the following sections:

10a. The Director shall,

Application for and determination of benefits

- (a) receive applications for benefits; and
- (b) in accordance with this Act and the regulations,
 - (i) determine whether any person is entitled to or eligible to receive a benefit,
 - (ii) where an applicant is so entitled or eligible, determine the amount of the allowance or other benefit and direct provision thereof, and
 - (iii) from time to time vary the amount or benefit so determined.
- 10b. Subject to section 10c, the Director may refuse to Refusal or provide or may suspend or cancel a benefit where, of benefit
 - (a) the applicant or recipient is not or ceases to be entitled thereto, or eligible therefor, under this Act or the regulations;
 - (b) the applicant or recipient is absent from Ontario;
 - (c) the applicant or recipient fails to provide to the Director or his representative, including a field worker, the information required to determine initial or continuing entitlement to or eligibility for a benefit or the amount of an allowance; or

(d) any other ground for refusal, suspension or cancellation specified in the regulations exists.

Notice of proposal to suspend, etc.

10c.—(1) The Director shall not refuse an application for a benefit or suspend or cancel a benefit until more than ten days have elapsed after he has given notice of a proposal to do so, together with his reasons therefor, to the applicant or recipient.

Contents

(2) A notice under subsection 1 shall inform the applicant or recipient that he may within ten days after receipt by him of the notice, file with the Director written representations against the proposed action.

Powers of Director

- (3) Where an applicant or recipient,
 - (a) does not file representations with the Director within ten days after receipt by him of a notice under subsection 1; or
 - (b) has so filed such representations and the Director has given consideration to them,

the Director may carry out the proposed action, and shall give notice of his decision, together with the reasons therefor to the applicant or recipient.

Notice of variation

(4) Where the Director varies the amount of any allowance or benefit, he shall give notice of such variation, together with his reasons therefor, to the recipient.

Notice of decision

(5) A notice under subsection 3 or 4 shall inform the applicant or recipient that he is entitled to a hearing by the board of review if he delivers or mails to the chairman of the board a request therefor in the prescribed form within thirty days after receipt by him of the notice and an applicant or recipient who so mails or delivers such a request is entitled to a hearing by the board.

Extension of time for requesting hearing (6) The board may extend the time for giving notice by an applicant or recipient under subsection 5 either before or after expiration of the time therein specified where it is satisfied there are *prima facie* grounds for claiming relief pursuant to a hearing or for appeal and that there are reasonable grounds for applying for the extension.

- (7) A notice by the Director under this section may be How notice given by delivering it personally or by sending it by given prepaid mail addressed to the applicant or recipient at his address last known to the Director and, where notice is sent by mail, the notice shall be presumed to have been received on the third day after the day of mailing unless the person to whom notice is given did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice until a later date.
- (8) A decision of the Director under this section shall Effective date of be effective from such date either before or after the decision date of the making of the decision as the Director may fix.
- (9) The Statutory Powers Procedure Act, 1971 does not 1971, c. ... apply to proceedings of the Director under this apply section.
- (10) This section does not apply to refusal of an applica- Application of section tion for or cancellation of a benefit on the death of the applicant or recipient.
- (6) Subsection 5 of section 11 of *The Family Benefits Act*, 1966, c. 54, 1966, as enacted by section 2 of *The Family Benefits Amend*-(1968, c. 39, ment Act, 1968, is repealed and the following substituted subs. 5, re-enacted:

 therefor:
 - (5) The chairman of the board of review may authorize One or more one or more members of the board to conduct a members may conduct hearing and such member or members has or have hearing all the powers of the board for the purpose of such hearing and any decision of such member or members shall be a decision of the board.
- - 11a.—(1) Where an applicant or recipient files a request Review for a hearing in accordance with section 10c, the board of review shall fix a time for and hold a hearing to review the decision of the Director.
 - (2) The Director, the applicant or recipient who requested Parties the hearing and such other persons as the board may specify are parties to the proceedings before the board of review.

Hearings in camera

1971, c. . . .

(3) Notwithstanding *The Statutory Powers Procedure* Act, 1971, all hearings of the board of review shall be heard in camera.

Members holding hearing not to have taken part in prior consideration of matter

- (4) Subject to subsection 5, members of the board holding a hearing,
 - (a) shall not have taken part in any investigation or consideration of the subject-matter of the hearing prior to the hearing; and
 - (b) shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate.

Legal advice (5) The board of review may seek legal advice from an adviser independent from the parties and members of the board may at any time consult with other members of the board.

Submission by Director

(6) The Director may make his submissions at a hearing of the board of review in writing, but the applicant or recipient who is a party to the hearing shall be afforded an opportunity to examine before the hearing any such submission or any written or documentary evidence that the Director proposes will be produced or any report the contents of which the Director proposes will be given in evidence at the hearing.

Recording of evidence

- (7) The oral evidence taken before the board of review at a hearing shall be recorded,
 - (a) by notes taken by or under the supervision of the members of the board conducting the hearing; or
 - (b) in such other manner as such members may direct, in which case copies of a transcript shall, on request, be furnished upon the same terms as in the Supreme Court.

Findings of fact

(8) The findings of fact of the board of review pursuant to a hearing under this section shall be based exclusively on evidence admissible and facts of which notice may be taken under sections 15 and 16 of The Statutory Powers Procedure Act, 1971.

1971, c. . . .

- (9) No member of the board of review shall make any Only decision of the board pursuant to a hearing under hearing to this section unless he was present throughout the indecision hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the board shall be given unless all members so present take part in the decision.
- (10) Where, after a hearing, the board of review has Powers of reviewed the decision of the Director, the board may, hearing
 - (a) affirm the decision;
 - (b) rescind the decision and direct the Director to make any other decision that the Director is authorized to make under this Act and the regulations and as the board considers proper and for such purpose the board may substitute its opinion for the opinion of the Director; or
 - (c) refer the matter back to the Director for reconsideration in accordance with such directions as the board considers proper under this Act and the regulations,

and the Director shall give effect to any directions given by the board under this section.

- (11) The board of review may, on application of any Variation party, reconsider and vary any decision made by by board it after hearing the parties to the proceedings in which the original decision was made, and the provisions of this section, except subsection 4, apply mutatis mutandis to the proceedings on such reconsideration.
- 11b.—(1) Any party to the proceedings before the board Appeal of review under section 11a may appeal from the decision of the board to the Supreme Court on a question that is not a question of fact alone in accordance with the rules of court.
- (2) Where any party appeals from a decision of the Record to board of review, the board shall forthwith file within court the Registrar of the Supreme Court the record of the proceedings before it in which the decision was made, which together with the transcript of the evidence, if any, before the board if it is not part of the board's record, shall constitute the record in the appeal.

Minister entitled to be heard

(3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal

(4) On an appeal under this section, the court may affirm the decision of the board of review or may rescind it and refer the matter back to the board or to the Director to be disposed of in accordance with such directions as the court considers proper under this Act and the regulations, and the board or the Director shall give effect to any direction given by the court under this section.

Effect of decision pending disposal of appeal 11c. Notwithstanding that an applicant or recipient has requested a hearing by the board of review under section 11a, or has appealed from a decision of the board under section 11b, the decision of the Director or of the board, as the case may be, is effective until the decision of the board is made after the hearing or the decision of the court is made on the appeal, as the case may be.

Recovery of overpayments, etc

11d. Notwithstanding section 5 and subject to the regulations, the Director may recover from a recipient any sum paid to him by way of an allowance under this Act or any predecessor Act mentioned in subsection 1 of section 14 to which he was not entitled under this Act or such predecessor Act or in excess of any amount to which he was so entitled, whether by reason of non-disclosure of facts, misrepresentation or fraud, or for any other cause disentitling him to such an allowance, by reducing or suspending any allowance payable to the recipient or by proceedings to recover such sum as a debt due to the Crown in any court of competent jurisdiction.

Further application

11e. Notwithstanding any decision of the Director, the board of review or of the court, a further application for a benefit may be made to the Director by the applicant or recipient upon new or other evidence or where material circumstances have changed.

1966, c. 54, s. 13, amended (8) Section 13 of *The Family Benefits Act*, 1966 is amended by striking out "The Lieutenant Governor in Council may make such regulations with respect to benefits as are deemed necessary for carrying out the purposes of this Act, and in particular" in the first, second and third lines and inserting in lieu thereof "The Lieutenant Governor in Council may make regulations".

(9) Clause e of the said section 13 is repealed.

1966, c. 54, s. 13, cl. e, repealed

- (10) Clause n of the said section 13 is repealed and the $\frac{1966}{s}$, c. 54, following substituted therefor:
 - (n) providing for the reinstatement and transfer of allowances and other benefits.
- **39.** Section 2 of *The Fire Fighters' Exemption Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 2.—(1) Upon complaint to the council of neglect of Forfeiting duty by a member of such fire company, the council after hearing shall examine into the complaint and, for any such cause and also in case a member of the company is convicted of a breach of any of the rules legally made for the regulation of the company, may, after a hearing, strike off the name of any such member from the list of the company and thenceforward the certificate granted to the member has no effect in exempting him from any duty or service.
 - (2) The member of the fire company against whom the Parties to complaint has been made and the complainant, if any, are parties to a hearing under subsection 1.
- **40.**—(1) Subsection 3 of section 4 of *The Fish Inspection* B.S.O. 1960, c. 150, s. 4, subs. 3, re-enacted
 - (3) Where a person is convicted of an offence under Disposal this Act or the regulations, any fish or containers seized seized under subsection 1 by means of or in relation to which the offence was committed, shall be ordered to be forfeited to Her Majesty by the court or judge convicting such person and may be disposed of as the Minister directs.
 - (4) Where a person pleads guilty to an offence against Where offence this Act or the regulations and fish or containers mitted in were seized under subsection 1 by an inspector as fish seized being fish or containers by means of or in relation to which the offence was committed, it shall be presumed by the court or judge convicting such person, in the absence of evidence to the contrary, that the offence was committed by means of or in relation to such fish or containers.
 - (2) Section 11 of The Fish Inspection Act is repealed.

R.S.O. 1960, c. 150, s. 11, repealed 1968, c. 44, amended **41.** The Forest Fires Prevention Act, 1968 is amended by adding thereto the following section:

Appeal

23a.—(1) Any person who is refused a fire permit, a forest travel permit or a work permit by an officer, or who is aggrieved by the terms and conditions contained in such permit or whose fire permit, forest travel permit or work permit has been cancelled or suspended by an officer may appeal to the district forester for the forest district to which the permit relates from the decision of the officer, and the district forester shall hear the appeal and may affirm or vary the terms and conditions or the decision of the officer and may, if he rescinds the decision, grant a permit.

Parties

(2) The appellant and the officer from whose decision the appeal is taken are parties to an appeal under this section.

How appeal made

(3) An appeal under this section may be made in writing or orally or by telephone to the district forester, but the district forester may require the grounds for the appeal be made in writing before the hearing.

Decision of officer

(4) Notwithstanding that an appeal has been brought, the decision of an officer relating to a permit, unless varied by the officer, is binding and effective until varied or rescinded by the district forester.

R.S.O. 1960, c. 153, s. 5, subs. 3, re-enacted **42.**—(1) Subsection 3 of section 5 of *The Forestry Act* is repealed and the following substituted therefor:

Cutting and removing trees

(3) The owner of a private forest reserve shall not cut or remove any trees growing thereon without the consent of the Minister who, in giving or refusing his consent, shall have regard to the sound management of the reserve for forestry purposes and the reasonable business requirements of the owner and who, where he refuses his consent, shall give reasons to the owner for his refusal.

R.S.O. 1960, c. 153, s. 9, cl. *g*, repealed

(2) Clause g of section 9 of The Forestry Act is repealed.

1968-69, c. 41, s. 1, amended **43.**—(1) Section 1 of *The Gasoline Handling Act, 1968-69* is amended by adding thereto the following subsection:

Chief

(2) The Minister may designate an officer of the Department of Labour to be chief officer for the purposes of this Act.

(2) Section 6 of *The Gasoline Handling Act, 1968-69* is ¹⁹⁶⁸⁻⁶⁹. c. 41, s. 6, re-enacted repealed and the following substituted therefor:

6.—(1) No person shall,

Licence to station, etc.

- (a) operate a service station;
- (b) operate a marina;
- (c) operate a bulk plant; or
- (d) transport gasoline or an associated product,

unless licensed to do so by the chief officer.

(2) Subject to section 6a, any person who makes applica- Entitlement tion for a licence for any of the purposes enumerated in subsection 1 in accordance with this Act and the regulations and pays the prescribed fee is entitled to be issued such licence by the chief officer.

(3) Subject to section 6b, a licensee who makes application Entitlement to renewal for a renewal of his licence in accordance with this of licence Act and the regulations and pays the prescribed fee is entitled to a renewal of his licence by the chief officer.

6a. Subject to section 6c, the chief officer may refuse to Refusal to issue licence issue a licence to an applicant who has otherwise complied with the requirements of section 6 if in his opinion the past conduct of the applicant or, where the applicant is a corporation, of its officers, directors or servants, affords reasonable grounds for belief that the operations to be carried on pursuant to the licence will not be carried on in accordance with law and in a safe manner.

6b. Subject to section 6c, the chief officer may refuse Suspension, to renew or may suspend or revoke a licence if in his licence opinion the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has knowingly permitted any person under his control or direction or associated with him in the carrying on of operations pursuant to the licence to contravene any provision of this Act or of the regulations or of any other Act or regulations applying to the carrying on of such operations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision.

Notice of proposal to refuse or revoke 6c.—(1) Where the chief officer proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee informing him that he has a right to a hearing by a judge of the county or district court of the county or district in which he intended to carry on or carried on his operations under the licence if he applies therefor within fifteen days after service of the notice by the chief officer, and the applicant or licensee may within such time apply to the judge for a hearing.

Powers of chief officer where no hearing

(2) Where an applicant or licensee does not apply for a hearing in accordance with subsection 1, the chief officer may carry out the proposal stated in his notice under subsection 1.

Powers of judge where hearing

(3) Where an applicant or licensee applies to a judge for a hearing in accordance with subsection 1, the judge shall appoint a time for and hold the hearing and, on the application of the chief officer at the hearing, may by order direct the chief officer to carry out his proposal or refrain from carrying out his proposal and take such action as the judge considers the chief officer ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the chief officer.

Service of notice

(4) The chief officer may serve notice under subsection 1 personally or by registered mail addressed to the applicant or licensee at his address last known to the chief officer and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice until a later date.

Extension of time for hearing (5) A judge to whom application is made by an applicant or licensee for a hearing under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

- (6) Where, within the time prescribed therefor or, if no continuation of licences time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the chief officer proposes to refuse to grant the renewal, until the time for applying to a judge for a hearing expires and, where a hearing is applied for, until the judge has made his order.
- 6d.—(1) The chief officer, the applicant or licensee who Parties has applied for the hearing and such other persons as the judge may specify are parties to the proceedings before a judge under section 6c.
- (2) Notice of a hearing under section 6c shall afford to the Notice of applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (3) An applicant or licensee who is a party to pro-Examination ceedings under section 6c shall be afforded an op-documentary portunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- (4) The oral evidence taken before the judge at a hearing Recording shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.
- (5) The findings of fact of a judge pursuant to a hearing Findings shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.
- 6e.—(1) Any party to proceedings before a judge may Appeal from appeal from the decision or order of the judge to the judge Supreme Court in accordance with the rules of court.
- (2) Where notice of an appeal is served under this Record to be section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in

which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Decision

(4) The Supreme Court may, on the appeal, exercise all the powers of the judge appealed from and for such purpose the court may substitute its opinion for that of the chief officer or of the judge or the court may refer the matter back to the judge for a rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Provisional order of chief officer 6f. Notwithstanding section 6c, the chief officer, by notice to a licensee and without a hearing, may provisionally refuse renewal of or suspend the licensee's licence where the carrying on of the operations under the licence is, in the chief officer's opinion, an immediate threat to public safety or the safety of any person and the chief officer so states in the notice giving his reasons therefor, and thereafter sections 6c, 6d and 6e apply as if the notice given under this section were a notice of a proposal to revoke the licence served under subsection 1 of section 6c.

1968-69, c. 41, s. 8, amended (3) Section 8 of *The Gasoline Handling Act, 1968-69* is amended by adding thereto the following subsections:

Appeal from instructions of inspector

(4a) Any person who considers himself aggrieved by any instructions given by an inspector under this section may forthwith appeal to the chief officer, but the bringing of such appeal does not affect the operation of the instructions appealed from until disposition of the appeal.

How made (4b) An appeal under subsection 4a may be made in writing or orally or by telephone, but the chief officer may require the grounds for appeal to be specified in writing before the hearing.

Parties

(4c) The appellant, the inspector from whom the appeal is taken and such other persons as the chief officer may specify are parties to an appeal under this section.

(4d) On an appeal under this section, the chief officer Powers of chief officer shall hear and dispose of it as promptly as is on appeal practicable and may substitute his findings or opinions for those of the inspector who gave the instructions appealed from and may affirm or reverse such instructions or give new instructions in substitution therefor and for such purpose has all the powers of the inspector and the instructions of the chief officer shall stand in the place of and have like effect under this Act and the regulations as the instructions of the inspector.

- (7) Subsection 6 does not, by reason of subsections 2 crown not relieved of and 4 of section 5 of The Proceedings Against the liability Crown Act, 1962-63, relieve the Crown of liability 1962-63, c. 109 in respect of a tort committed by an inspector and to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 6 had not been enacted.
- (4) Clause j of section 9 of The Gasoline Handling Act, 1968-69, c. 41, 168-69 is repealed. 1968-69 is repealed.
- 44.—(1) The General Welfare Assistance Act is amended by R.S.O. 1960, c. 164, adding thereto the following section:
 - 6a. A municipal welfare administrator or a regional Administrator may welfare administrator may, in writing, authorize any delegate person employed on his staff to exercise under his duties supervision and direction any of the powers conferred or the duties imposed on him under this Act or the regulations.
- (2) Section 7d of The General Welfare Assistance Act, as R.S.O. 1960, enacted by section 1 of The General Welfare Assistance Amend-(1968, c. 48, ment Act, 1968, is repealed and the following substituted re-enacted therefor:
 - 7d.—(1) In this section and section 7e, "welfare adminis-adminis-adminis-administrator" means municipal welfare administrator or trator defined regional welfare administrator, as the case may be.
 - (2) A welfare administrator may refuse to provide or Suspension, may suspend or cancel assistance under this Act assistance where,
 - (a) the applicant or recipient is not or ceases to be entitled thereto or eligible therefor under this Act or the regulations;

- (b) the applicant or recipient fails to provide to the welfare administrator or his representative the information required to determine initial or continuing entitlement to or eligibility for assistance or the amount of the assistance; or
- (c) any other ground for refusal, suspension or cancellation specified in the regulations exists.

Opportunity to make submissions

(3) Where practicable, a welfare administrator shall afford an applicant for or recipient of assistance prescribed as general in the regulations an opportunity to make submissions before suspension, cancellation or refusal of the assistance to show why such action should not be taken and *The Statutory Powers Procedure Act*, 1971 does not apply to proceedings of a welfare administrator under this section.

1971, c. . . .

R.S.O. 1960, c. 164, amended

(3) The General Welfare Assistance Act is amended by adding thereto the following sections:

Application for review

7e.—(1) Any applicant or recipient affected by a decision of a welfare administrator made under this Act or the regulations in respect of the payment of a class of assistance prescribed as general in the regulations may by notice mailed within thirty days after he receives notice of the decision to the chairman of the board of review established under *The Family Benefits Act*, 1966 request a hearing and review of the decision by the board and an applicant or recipient who so mails or delivers such request is entitled to a hearing by the board.

1966, c. 54

Extension of time for requesting hearing (2) The board of review may extend the time for giving notice by an applicant or recipient under subsection 1 either before or after expiration of the time therein specified where it is satisfied there are *prima facie* grounds for claiming relief pursuant to a hearing or for appeal and that there are reasonable grounds for applying for the extension.

Application of 1966, c. 54

(3) Where an applicant or a recipient has filed a notice requesting a hearing under subsection 1, the provisions of sections 11a, 11b, 11c and 11e of The Family Benefits Act, 1966 apply mutatis mutandis to a hearing and review by the board of review under this Act and appeals therefrom.

- 7f. A municipal welfare administrator or a regional Recovery where welfare administrator may recover from a recipient recipient not any sum paid to him by way of assistance to which assistance he was not entitled under this Act or in excess of any amount to which he was so entitled whether by reason of non-disclosure of facts, misrepresentation or fraud or for any other cause disentitling him to such assistance by reducing or suspending any assistance payable to the recipient or by proceedings to recover such sum as a debt due to the municipality or to the Crown, as the case may be, in any court of competent jurisdiction.
- **45.**—(1) Section 2, and section 3 as amended by section 2 ¹⁹⁶⁶, c. 65, of *The Homes for Retarded Persons Amendment Act*, 1968, re-enacted of *The Homes for Retarded Persons Act*, 1966, are repealed and the following substituted therefor:
 - 2. Where the Lieutenant Governor in Council is Approval of satisfied that any corporation is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a home for retarded persons and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act.
 - 3.—(1) Where the Lieutenant Governor in Council is Approval of satisfied that a building is suitable for providing accommodation as a home for retarded persons in accordance with this Act and the regulations, he may approve such building as a home for retarded persons for the maintenance and operation of which assistance may be given under this Act.
 - (2) An approval given under subsection 1 may take Effective effect on any date fixed by the Lieutenant Governor approval in Council that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the home for retarded persons.
- (2) Section 11 of *The Homes for Retarded Persons Act*, 1966, c. 65, 1966 is repealed and the following substituted therefor: re-enacted
 - 11.—(1) Subject to this section, any approval given under Suspension this Act may be suspended by the Minister or revoked tion of by the Lieutenant Governor in Council on the recommendation of the Minister if,

- (a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provisions; or
- (b) the approval would be refused if application were being made for it in the first instance.

Hearing

(2) Subject to subsection 6 and except where an approval is suspended or revoked with the consent of the approved corporation, before suspending, or before recommending to the Lieutenant Governor in Council revocation, of an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Department of Social and Family Services, appointed by the Minister.

Application of 1971, c. . . .

(3) Sections 4 to 16 and 21 to 24 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section.

Report to

(4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected.

Decision of Minister (5) After considering a report made to him under this section, the Minister may thereupon suspend or recommend revocation of the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor.

Provisional suspension of approval (6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the

public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections 2 to 5 apply.

- (3) Clause m of section 12 of The Homes for Retarded 1966, c. 65, s. 12, cl. m, repealed.
- **46.** Section 14 of *The Homes for the Aged and Rest Homes* R.S.O. 1960, Act as amended by section 9 of *The Homes for the Aged* repealed and Rest Homes Amendment Act, 1968, is repealed.
- **47.**—(1) Section 2 of *The Horticultural Societies Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 2.—(1) Where any dispute arises as to the operation Disputes or construction of this Act, the Superintendent shall, after a hearing, decide such dispute.
 - (2) A party to a dispute under this section may appeal Appeal from from a decision of the Superintendent to the Superintendent within fifteen days after receipt of the decision of the Superintendent and the Minister may, after considering the record of the proceedings before the Superintendent and affording to the parties an opportunity for an argument on the appeal, affirm, vary or annul the decision of the Superintendent.
 - (3) The Superintendent or the Minister, as the case Stated case may be, may of his own motion, or upon the request of any party to a dispute or an appeal, state a case in writing to the Supreme Court setting forth any question of law that arises at the hearing or on the appeal and the facts material thereto.
 - (4) If the Superintendent or the Minister, as the case Refusal to may be, refuses to state a case under this section, the party requesting it may apply to the Supreme Court for an order directing him to state such a case.
 - (5) Where a case is stated under this section, the Decision Supreme Court shall hear and determine the question raised in a summary manner and shall certify its decision to the Superintendent or the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the dispute in accordance therewith.
- (2) Sections 21 and 22 of *The Horticultural Societies Act* c. 175. ss. 21, 22. are repealed and the following substituted therefor:

Inspection and inquiry

21.—(1) The Minister may appoint a person to inspect the books and accounts of any society receiving legislative grants under this Act or to inquire into the affairs of such society, and every officer of the society shall, when required by such person, make available the books and accounts thereof for the purpose of such inspection or inquiry.

Powers on inquiry

1971, c. . . .

(2) A person appointed under subsection 1 has, for the purposes of an inspection or inquiry thereunder, the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inspection or inquiry as if it were an inquiry under that Act.

Fraud in obtaining prizes

22.—(1) Where the board of a society has reason to believe that any member or other person exhibiting a product at an exhibition at which prizes are offered by the society has committed a fraud or made any misrepresentation in respect of the product, the board may withhold payment or delivery of any prize money or other prize award to the member or person and the board shall, forthwith, furnish to him a written statement of its reasons for so doing.

Appeal

(2) A member or other person from whom prize money or a prize award has been withheld by the board of a society under subsection 1 may appeal to a judge of the county or district court of the county or district in which the head office of the society is situate by filing a notice of appeal in the office of the clerk of the court and leaving a copy of the notice of appeal at the head office of the board within fifteen days after receipt of the statement of the reasons of the board furnished under subsection 1.

Parties

(3) The appellant and the board from whose decision the appeal is taken are parties to an appeal under this section.

Hearing de novo

(4) An appeal to a judge under this section shall be held by way of a hearing *de novo*.

Decision of judge

(5) On an appeal under this section, the judge may affirm, vary or annul the decision of the board and may order the board to pay or deliver any prize money or prize award withheld by it under this section.

- **48.** Sections 1 and 2 of *The Hospital and Charitable Institu*-R.S.O. 1960, c. 177, s. 1, tions *Inquiries Act* are repealed and the following substituted re-enacted; s. 2, repealed therefor:
 - 1. Whenever the Lieutenant Governor in Council con-Inquiry siders it expedient to cause inquiry to be made concerning any matter connected with or affecting a hospital, sanatorium, charitable institution or other organization that is granted aid out of moneys appropriated by the Legislature, he may, by commission, appoint one or more persons to conduct such inquiry, and every person so appointed has for that purpose the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which ^{1971, c....} Part applies to such inquiry as if it were an inquiry under that Act.
- **49.** Section 3 of *The Industrial Standards Act* is repealed R.S.O. 1960, and the following substituted therefor:
 - 3. Every officer has such powers and duties as are Powers and prescribed by this Act and the regulations and has officers authority to conduct inquiries and investigations respecting all matters coming within the scope of such powers and duties and, for such purposes, has the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to 1971, c... such inquiries and investigations as if they were inquiries under that Act.
- **50.**—(1) The Lakes and Rivers Improvement Act is amended R.S.O. 1960, by adding thereto the following section:
 - 1a. The purpose of this Act is to provide for the use of Exercise of waters of the lakes and rivers of Ontario and to Act regulate improvements in them, and to provide for:
 - (a) the preservation and equitable exercise of public rights in or over such waters;
 - (b) the protection of the interests of the riparian owners;
 - (c) the use, management and perpetuation of the fish, wildlife and other natural resources dependent on such waters;
 - (d) the preservation of the natural amenities of such waters and on the shores and banks thereof; and

(e) ensuring the suitability of the location and nature of improvements in such waters, including their efficient and safe maintenance and operation and having regard to matters referred to in clauses a, b, c and d, their operation in a reasonable manner.

R.S.O. 1960, c. 203, s. 2, subs. 1, cl. *c*, repealed

(2) Clause c of subsection 1 of section 2 of The Lakes and Rivers Improvement Act is repealed.

R.S.O. 1960, c. 203, s. 2, amended (3) The said section 2 is amended by adding thereto the following subsection:

Penalty

(3) Every person who contravenes any provision of this Act or the regulations, is guilty of an offence and on summary conviction is liable, where no other penalty is provided in this Act, to a fine of not more than \$5,000.

R.S.O. 1960, c. 203, s. 7*a* (1960-61, c. 43, s. 1), amended (4) Section 7a of The Lakes and Rivers Improvement Act, as enacted by section 1 of The Lakes and Rivers Improvement Amendment Act, 1960-61, is amended by adding thereto the following subsection:

Crown not relieved of liability 1962-63, c. 109 (2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, 1962-63, relieve the Crown of liability in respect of a tort committed by any agent or servant of the Crown to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

R.S.O. 1960, c. 203, amended (5) The Lakes and Rivers Improvement Act is amended by adding thereto the following sections:

Inquiry

7b.—(1) Subject to subsection 2, where under this Act the approval of the Minister is required for any matter, or where under this Act the Minister is empowered to make an order directing the construction. repair, improvement or removal of a dam in any lake or river or the doing of any other act or thing requiring the incurring of costs, the Minister shall. before refusing such an approval or making an order, give notice to the person seeking the approval or to the person to whom the proposed order will be directed of his intention to refuse the approval or to make the order, and if such person, within fifteen days of receipt of the notice, requests an inquiry, the Minister, before refusing the approval or making the order shall cause an inquiry to be made under section 7c.

(2) Where in the opinion of the Minister the making of Where order an order referred to in subsection 1 is immediately without necessary for the protection of persons from injury or property from damage or for the public safety and he so states in the order, the Minister may make such order without the holding of an inquiry.

- 7c.—(1) The Minister may appoint a person to hold Appointment an inquiry under section 7b and shall specify par-hold inquiry ticulars of the inquiry and the person so appointed shall fix a time and place for the holding of the inquiry.
- (2) The Minister and the person seeking the approval Notice of referred to in section 7b or to whom the proposed order referred to therein may be directed are parties to the inquiry, but any person having a direct interest in the subject-matter of the inquiry may notify the person holding the inquiry of his interest and become a party, and the person holding the inquiry may cause notice of the inquiry to be published or otherwise given in such manner as he considers reasonably adequate to inform all persons who may have direct interests in the subject-matter of the inquiry.
- (3) At least five days before the date fixed for the Notice of hearing, the Minister shall serve upon each other party to the inquiry a notice indicating the grounds upon which he intends to rely at the hearing and shall make available for inspection by the parties any documents, including maps and plans that the Minister proposes to use at the hearing.
- (4) The person holding an inquiry under this section Holding of shall hold a hearing as to whether the refusal of approval or the proposed order is fair, sound and reasonably necessary for the achievement of the purposes of this Act.
- (5) A person holding an inquiry under this section shall Report of report to the Minister pursuant to the inquiry giving a summary of the evidence and arguments advanced by the parties, his findings of fact and his opinion on the merits of the granting of approval or of the proposed order with his reasons therefor, and shall furnish a copy of his report to the other parties.
- (6) Sections 6 to 16 and 21 to 23 of *The Statutory* Application *Powers Procedure Act, 1971* apply with respect to a hearing under this section.

Decision of Minister (7) The Minister shall consider a report made to him under this section and may grant or refuse the requested approval or refrain from making or make the proposed order, with or without such modifications as he considers proper having regard to the report, and the Minister shall give reasons for his decision to the parties.

Appeal

- 7d. Upon the petition of a person who has been refused approval by the Minister of any matter or to whom an order is directed by the Minister after an inquiry under section 7c filed with the Clerk of the Executive Council within twenty-eight days after the date of the refusal or order, the Lieutenant Governor in Council may,
 - (a) confirm, vary or rescind the refusal or order; or
 - (b) require the Minister to cause a new inquiry to be held,

and the decision of the Minister after the new inquiry is not subject to petition under this section.

R.S.O. 1960, c. 203, s. 9 (1962-63, c. 71, s. 1), subs. 3, re-enacted

(6) Subsection 3 of section 9 of The Lakes and Rivers Improvement Act, as re-enacted by section 1 of The Lakes and Rivers Improvement Amendment Act, 1962-63, is repealed and the following substituted therefor:

Refusal of approval where contrary to purposes of Act (3) The Minister may refuse to give his approval under this section to the location of a dam where it appears to him that the construction of a dam at that location would be contrary to any of the purposes of this Act.

R.S.O. 1960, c. 203, s. 9 (1962-63, c. 71, s. 1), subs. 5, re-enacted

(7) Subsection 5 of the said section 9 is repealed and the following substituted therefor:

Approval of plans

(5) The Minister may approve the plan and specifications of a dam as submitted to him or may approve them with such alterations as he considers advisable having regard to the purposes of this Act, and without limiting the generality of the foregoing, may require that the dam shall be provided with a fishway that will permit the free and unobstructed passage of fish.

R.S.O. 1960, c. 203, s. 9a (1962-63, c. 71, s. 1), subs. 2, re-enacted (8) Subsection 2 of section 9a of The Lakes and Rivers Improvement Act, as enacted by section 1 of The Lakes and Rivers Improvement Amendment Act, 1962-63, is repealed and the following substituted therefor:

Order for repair, etc., of dam (2) The Minister may, where he considers it necessary for any of the purposes of this Act, order the owner of a dam to which subsection 1 applies to repair, re-

construct or remove the dam within the time specified in the order and, upon non-compliance with the order within the time limited, the Minister may repair, reconstruct or remove the dam to the extent that he considers it necessary to comply with the purposes of this Act, and the cost of any such work shall be a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction.

- (9) Section 10 of *The Lakes and Rivers Improvement Act* is R.S.O. 1960, repealed and the following substituted therefor: Research re-enacted
 - 10. Where a dam has heretofore been or is hereafter Approval constructed in a lake or river and it is proposed to make improvements to the dam, the improvements shall not be proceeded with until complete copies of the plans and specifications have been approved by the Minister as being in accordance with the purposes of this Act.
- (10) Subsection 2 of section 11 of *The Lakes and Rivers* R.S.O. 1960, c. 203, s. 11, *Improvement Act* is repealed and the following substituted subs. 2, re-enacted therefor:
 - (2) Upon failure on the part of the owner to furnish Failure to plans and other particulars required under subsection plans 1 within the time specified, the Minister may require the engineer to make an examination and report on the dam, and the expenses incurred in making the examination and report shall be a debt due by the owner to the Crown, and the amount thereof is recoverable with costs in any court of competent jurisdiction.
- (11) Subsection 5 of the said section 11 is repealed and the R.S.O. 1960, c. 203, s. 11, subs. 5, re-enacted
 - (5) Upon non-compliance with the order within the Effect of time limited or in case the Minister considers that compliance the repairs, improvements, opening up or removal ordered is immediately required in an emergency, the Minister may repair, improve, open up or remove the dam in so far as he considers it necessary to ensure the safety of the public or of persons whose lands or property may be endangered by the dam, and the cost of any such work is a debt due by the owner to the Crown, and the amount thereof is recoverable with costs in any court of competent jurisdiction.
- (12) Subsection 2 of section 12 of *The Lakes and Rivers*_{c. 203, s. 12, *Improvement Act* is repealed and the following substituted therefor:}

Noncompliance with order

(2) Where the owner of a dam fails to comply with an order made under subsection 1 within the time specified in the order, the Minister may cause to be done whatever work is necessary to comply with the order, and the cost thereof is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction.

R.S.O. 1960, c. 203, s. 13, subss. 2, 3, re-enacted; subs. 4, repealed

(13) Subsections 2, 3 and 4 of section 13 of *The Lakes and Rivers Improvement Act* are repealed and the following substituted therefor:

Repair or reconstruction

(2) If the Minister considers it necessary or expedient for the purposes of this Act, he may, after the receipt of the report of the engineer, order the owner of the dam or other structure or work to repair, reconstruct or remove it to the extent necessary to comply with such purposes within the time specified in the order.

Noncompliance with order (3) Where the owner fails to comply with an order made under this section within the time specified in the order, the Minister may expropriate the site of the dam or other structure or work and all rights or interests incidental thereto on behalf of the Crown, and *The Expropriations Act, 1968-69* applies to such expropriation.

1968-69, c. 36

(14) Clauses b and c of subsection 1 of section 14 of The Lakes and Rivers Improvement Act are repealed and the following substituted therefor:

R.S.O. 1960, c. 203, s. 14, subs. 1, cl. b, re-enacted; cl. c, repealed

(b) hinders or obstructs the engineer or an officer, servant or agent employed by or under the direction of the Minister in the performance of his duties under this Part, or refuses or neglects to provide any plans, accounts, documents or report relating to the construction of a dam when required by such engineer, officer, servant or agent.

R.S.O. 1960, c. 203, s. 16, re-enacted (15) Section 16 of *The Lakes and Rivers Improvement Act* is repealed and the following substituted therefor:

Disputes as to user 16.—(1) Where the Minister considers it expedient for the purposes of this Act or where a conflict or dispute arises between persons having a right to use a lake or river or any works or other improvements thereon for floating timber or between such persons and any other persons having the right to use a lake or river for any other purpose, the Minister may appoint an officer or officers to be in charge of the lake or river or any works or improvements thereon and the Minister may, on the recommendation of such officer or officers make orders to regulate

the use of the lake or river or any works or improvements thereon in such manner as seems best calculated to afford to persons having diverse interests on the lake or river or in the works or improvements a fair and reasonable use of the waters of the lake or river, but where any alterations of the level of international boundary waters is involved, such orders shall conform to any order or recommendation that the International Joint Commission may make under the terms and authority of the International Boundary Waters Treaty between Great Britain and the United States.

(2) Every person who contravenes any order made Penalty under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day that he contravenes the order.

- (1) Where a dam or other structure or work has been Regulation heretofore or is hereafter constructed on a lake or levels river and the Minister considers it necessary or expedient for the purposes of this Act, he may order the owner of the dam or other structure or work to take such steps within the time specified in the order as may be necessary to maintain the level of the water of the lake or river or to raise or lower such level as the order provides.
- (2) Where the owner fails to comply with an order made Non-compliance under this section within the time specified in the with order order, the Minister may cause to be taken such steps as are necessary to achieve the result intended by the order, and the cost thereof is a debt due by the owner to the Crown and is recoverable with costs in any court of competent jurisdiction.
- (17) Section 18 of *The Lakes and Rivers Improvement Act* is R.S.O. 1960, c. 203, s. 18, repealed and the following substituted therefor:
 - 18. Subject to compensation being made as provided by Removal of The Public Works Act for any damage sustained by R.S.O. 1960, reason thereof, the Minister may authorize any engineer, agent, workman or servant employed by or under him to enter into and upon any land and remove any rocks, stones, gravel, slab or timber jam, dam or part of any dam, rubbish of any kind or other obstruction in any lake or river, the removal of which he considers necessary or expedient for the achievement of any of the purposes of this Act.

R.S.O. 1960, c. 203, ss. 23, 24, repealed

(18) Sections 23 and 24 of The Lakes and Rivers Improvement Act are repealed.

R.S.O. 1960, c. 203, s. 26, subs. 6 (1962-63, c. 71, s. 4), re-enacted

(19) Subsection 6 of section 26 of The Lakes and Rivers Improvement Act, as enacted by section 4 of The Lakes and Rivers Improvement Amendment Act, 1962-63, is repealed and the following substituted therefor:

Removal of timber causing obstruction (6) Where the Minister considers it necessary or expedient for the purposes of this Act, he may order the owner of or the person who is responsible for driving any timber that has drifted out of control or that has caused an obstruction or hazard in a lake or river to recover and remove the timber within the time specified in the order and, in default thereof, the Minister may cause the timber to be recovered and removed, and the cost thereof is a debt due to the Crown by such owner or person and is recoverable with costs in any court of competent jurisdiction.

R.S.O. 1960, c. 203, s. 31, re-enacted

(20) Section 31 of *The Lakes and Rivers Improvement Act* is repealed and the following substituted therefor:

Throwing trees, etc., in lake prohibited

31.—(1) Where any tree, part of a tree, refuse, substance or matter has been thrown or deposited in a lake or river or on the shores or banks thereof in such a manner as, in the opinion of the Minister, impairs the natural beauty of the lake or river, the Minister may order the person who committed or caused the commission of such act to take such steps within the time specified in the order as are necessary to remove the tree, part of a tree, refuse, substance or matter from the lake or river or from the shores or banks thereof.

Penalty

(2) Every person who fails to comply with an order under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day that he does not comply with the order.

R.S.O. 1960, c. 203, s. 33, subs. 3, re-enacted

(21) Subsection 3 of section 33 of *The Lakes and Rivers Improvement Act* is repealed and the following substituted therefor:

Order to cease depositing matter in lake, etc. (3) Where the Minister finds that any refuse, sawdust, chemical, substance or matter from a mill is being thrown, deposited or discharged into a lake or river or on the shores or banks thereof, the Minister may

order the owner or occupier of the mill to cause such throwing, depositing or discharging to cease and may in addition order, where in his opinion it is practicable to do so, that such owner or occupier take such steps within the time specified in the order as may be necessary to remove the refuse, sawdust, chemical, substance or matter from the lake or river or from the shores or banks thereof.

- (4) Every owner or occupier who fails to comply with an Penalty order under subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 for each day that he does not comply with the order.
- (22) Section 52 of *The Lakes and Rivers Improvement Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 52. The Minister may, with the approval of the Lieutenant Expropriation of works of Governor in Council, where the Lieutenant Governor company in Council considers it expedient for the purposes of this Act, expropriate the works of any company formed under this Part.
- (23) Section 80 of *The Lakes and Rivers Improvement Act* is R.S.O. 1960, repealed and the following substituted therefor:
 - 80. Any party to an arbitration under this Part may Appeal appeal from the award or directions in writing of the arbitrator to the Supreme Court in accordance with the rules of court.
- (24) Subsections 2 and 3 of section 87 and sections 88 to subss. 2, 3, 100 of The Lakes and Rivers Improvement Act are repealed; s. 88, and the following substituted therefor:

 R.S.O. 1900, c. 203, 8, 87, c. 204, 1900, c. 204, 8, 87, e. 204, 1900, c. 204, 8, 87, e. 204, 1900, c. 204, 8, 87, 1900, c. 204, 87, 1900, c. 204, 8, 87, 1900, c. 204, 87, 1900, c.
 - 88. A person to whom section 87 applies may expropriate Expropriation land for the purposes mentioned in section 87.

 of s. 87

 for purposes of s. 87
- **51.**—(1) Subsection 1 of section 3 of *The Lightning Rods* R.S.O. 1960, *Act* is amended by striking out "if he is satisfied that the subs. 1, applicant is entitled to public confidence, may" in the amended seventeenth and eighteenth lines and inserting in lieu thereof "shall, subject to subsection 3".
- (2) Section 3 of *The Lightning Rods Act* is amended by R.S.O. 1960, adding thereto the following subsection:
 - (3) The Fire Marshal may, after hearing the applicant, Refusal refuse to issue a licence under this section where,

- (a) the applicant is not competent to install lightning rods properly;
- (b) the lightning rods to be offered for sale, sold or installed under the licence are not of adequate quality or serviceability; or
- (c) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on operations authorized by the licence in accordance with law and with integrity and honesty.

R.S.O. 1960, c. 213, s. 4, subs. 1, amended

(3) Subsection 1 of section 4 of *The Lightning Rods Act* is amended by striking out "if he is satisfied that the person named is entitled to public confidence, may" in the twelfth and thirteenth lines and inserting in lieu thereof "shall, subject to subsection 3".

R.S.O. 1960, c. 213, s. 4, amended (4) The said section 4 is amended by adding thereto the following subsection:

Refusal

- (3) The Fire Marshal may, after hearing the applicant, refuse to issue a licence under this section where.
 - (a) the applicant is not competent to install lightning rods properly; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on operations authorized by the licence in accordance with law and with integrity and honesty.

R.S.O. 1960, c. 213, amended (5) The Lightning Rods Act is amended by adding thereto the following section:

Continuation of licence pending issue of new licence

- 4a. Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, the holder of a licence under this Act has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) until the application has been finally determined by the Fire Marshal, or where renewal is refused, until fourteen days after mailing of the decision of the Fire Marshal, or where application is made for a hearing by a judge, such later time as the judge may fix.

- (6) Section 5 of *The Lightning Rods Act*, as amended by R.S.O. 1960, section 1 of *The Lightning Rods Amendment Act*, 1960-61, is re-enacted repealed and the following substituted therefor:
 - 5.—(1) The Fire Marshal may, after a hearing, suspend Suspension or or revoke a licence if the licensee has contravened of licence any provision of this Act or the regulations and his conduct affords reasonable grounds for belief that he will not comply with this Act and the regulations in the operations authorized by the license.
 - (2) The notice of a hearing required under subsection 1 Notice of shall afford to the licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.
 - (3) An applicant or licensee shall be afforded an oppor-Examination tunity to examine before the hearing any written or documentary documentary evidence that will be introduced or any report the contents of which will be given in evidence at the hearing.
- (7) Section 6 of *The Lightning Rods Act* is repealed and the R.S.O. 1960, following substituted therefor:
 - 6.—(1) Where an applicant or licensee, as the case Application may be, is dissatisfied with a decision of the Fire by county Marshal under section 3, 4 or 5, he may, within ten days after receipt of the notice of the decision, apply to the judge of the county or district court of the county or district in which he resides for a hearing by the judge.
 - (2) A judge to whom application is made for a Extension of hearing under subsection 1 may extend the time for application for making the application, either before or after expiration of the time fixed in subsection 1, where he is satisfied that there are prima facie grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.
 - (3) The oral evidence taken before the judge at a Recording hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings of fact (4) The findings of fact of a judge pursuant to a hearing under this section shall be based exclusively on evidence admissible under the law of evidence or matters that may be judicially noticed.

Powers of judge (5) On an application under subsection 1, the judge may, after a hearing *de novo* to which the applicant, the Fire Marshal and such other persons as the judge may specify are parties, confirm, vary or reverse the decision of the Fire Marshal and may direct the Fire Marshal to do any act the Fire Marshal is authorized to do under this Act and as the judge considers proper.

Appeal to court

6a.—(1) Any party to the proceedings before a judge under this Act may appeal from the decision or direction of the judge to the Supreme Court in accordance with the rules of court.

Record to be filed in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision was made or direction was given which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Fire Marshal entitled to be heard (3) The Fire Marshal is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court

(4) The Supreme Court may affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper, and may order the Fire Marshal to do any act or thing he is authorized to do under this Act and as the court considers proper or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

R.S.O. 1960, c. 213, s. 10, amended (8) Section 10 of *The Lightning Rods Act* is amended by adding thereto the following subsections:

Hearing

(3) Where a licensee is dissatisfied with the report of an inspector under subsection 1, he may, within ten days after receipt of the report, request the Fire Marshal to hold a hearing.

- (4) Pursuant to a request under subsection 1, the Fire Parties Marshal shall hold a hearing to determine whether the inspector's report is proper and the inspector, licensee and such other persons as the Fire Marshal may specify are parties to the proceedings.
- (5) After a hearing under this section, the Fire Marshal Decision may confirm, vary or reverse the report of the Marshal inspector and may direct the inspector to do any act the inspector is authorized to do under this Act and as the Fire Marshal considers proper.
- **52.**—(1) Section 1 of *The Live Stock and Live Stock* R.S.O. 1960, *Products Act* is amended by relettering clause *a* as clause *aa* amended and by adding thereto the following clauses:
 - (a) "Board" means the Live Stock and Live Stock Products Licence Review Board established by this Act;
 - (da) "licence" means a licence required under the regula-
- (2) The Live Stock and Live Stock Products Act is amended R.S.O. 1960, by adding thereto the following sections:
 - 2a.—(1) Where a licence to deal in any live stock or Licence, live stock product is required under the regulations, the Commissioner shall issue a licence to a person who makes application therefor in accordance with the regulation and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the operations that would be authorized by the licence will not be carried on in accordance with law; or
 - (b) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the conditions under which the licence is issued.
 - (2) Subject to section 2b, the Commissioner shall renew Renewal a licence on application therefor by the licensee in accordance with the regulations and payment of the prescribed fee.

Refusal to renew, suspension or cancellation

- 2b.—(1) The Commissioner may refuse to renew or may suspend or cancel a licence if, after a hearing he is of opinion that,
 - (a) the premises, facilities and equipment used in the operations authorized by the licence do not comply with the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the operations authorized by the licence to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the operations authorized by the licence or of the conditions under which the licence was issued and such contravention warrants such refusal to renew, suspension or cancellation of the licence; or
 - (c) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the Commissioner, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Commissioner's opinion it is necessary to do so for the immediate protection of the safety or health of any person or the public and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee, and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal.

Notice of hearing 2c.—(1) Notice of a hearing by the Commissioner under section 2a or section 2b shall afford to the applicant

- or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (2) An applicant or licensee who is a party to pro-Examination ceedings in which the Commissioner holds a hearing mentary shall be afforded an opportunity to examine before evidence the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 2d. Where the Commissioner has refused to issue or Variation of renew or has suspended or cancelled a licence pur-Commissioner suant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.
- 2e.—(1) A board to be known as the "Live Stock and Review Board" is established hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
- (2) A member of the Board shall hold office for not more Term of than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remuneramuneration and expenses as the Lieutenant Governor in Council may determine.
- 2f.—(1) Where the Commissioner refuses to issue or re-Appeal to new or suspends or cancels a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen

days after receipt of the decision of the Commissioner appeal to the Board.

Extension of time for appeal (2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board (3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

Effect of decision pending disposal of appeal (4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of.

Parties

2g.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Pro-1971, c. ... cedure Act, 1971.
- (5) No member of the Board shall participate in a Only decision of the Board pursuant to a hearing unless at hearing to participate he was present throughout the hearing and heard in decision the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 2h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under this be heard section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and appeal the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.
- (5) Notwithstanding that an applicant or licensee has Effect of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the deci-disposal sion of the Board is effective until the appeal is disposed of.
- (3) Subsection 1 of section 4 of *The Live Stock and Live* R.S.O. 1960, Stock Products Act is amended by adding at the commence-subs. 1, amended ment thereof "Subject to subsection 4".
- (4) The said section 4 is amended by adding thereto the R.S.O. 1960, c. 219, s. 4, amended

Power to enter dwelling R.S.O. 1960, c. 387 (4) Except under the authority of a warrant under section 14 of *The Summary Convictions Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant.

Appeal from decision of inspector

- (5) Where an inspector has,
 - (a) delayed the shipment of any live stock or live stock products under clause e of subsection 1;
 - (b) refused to inspect or mark or give a certificate under clause f of subsection 1; or
 - (c) seized or detained any live stock or live stock products under clause g of subsection 1,

he shall immediately notify the owner and the owner may appeal to the Commissioner from the decision of the inspector.

Decision of Commissioner (6) The Commissioner may, after hearing an appeal under this section, confirm or revoke the decision appealed from and may direct the inspector to do any act he is authorized to do under this Act and the regulations.

Parties

(7) The appellant, the inspector who made the decision and such other persons as the Commissioner may specify are parties to proceedings before the Commissioner under subsection 6.

How appeal made (8) An appeal under this section may be made in writing or orally or by telephone to the Commissioner, but the Commissioner may require the grounds for appeal to be specified in writing before the hearing.

R.S.O. 1960, c. 221, s. 1, amended

- **53.**—(1) Section 1 of The Live Stock Community Sales Act, as amended by section 1 of The Live Stock Community Sales Amendment Act, 1965 and section 1 of The Live Stock Community Sales Amendment Act, 1967, is further amended by adding thereto the following clause:
 - (a) "Board" means the Live Stock Community Sales Licence Review Board established by this Act.

R.S.O. 1960, c. 221, amended (2) The Live Stock Community Sales Act is amended by adding thereto the following sections:

Issue of licence

3a.—(1) The Director shall issue a licence to a person who makes application therefor in accordance with

this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to engage in the business of operating community sales;
- (b) having regard to the applicant's financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the business of operating community sales;
- (c) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business of operating community sales pursuant to the licence will not be carried on in accordance with law and with honesty and integrity;
- (d) the applicant does not possess or will not have available all premises, facilities and equipment necessary to engage in the business of operating community sales in accordance with this Act and the regulations; or
- (e) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
- (2) Subject to section 3b, the Director shall renew a Renewal licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 3b.—(1) The Director may refuse to renew or may sus-Refusal pend or revoke a licence if, after a hearing, he is suspension of opinion that,
 - (a) the licensee is not or has not been financially responsible in the conduct of the business of operating community sales pursuant to the licence;
 - (b) the premises, facilities and equipment used in the business of operating community sales pursuant to the licence do not comply with this Act and the regulations;

- (c) there are reasonable grounds for belief that the business of operating community sales pursuant to the licence is not carried on in accordance with honesty and integrity;
- (d) the licensee or, where the licensee is a corporation, any officer, director or servant there-of has contravened or has permitted any person under his control or direction in connection with his business of operating community sales to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating community sales and such contravention warrants such refusal to renew, suspension or revocation of the licence; or
- (e) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Provisional suspension, etc. (2) Notwithstanding subsection 1, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or may suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or animal or of the interests of persons consigning animals for sale to the licensee and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act or the regulations.

Continuation of licence pending renewal

(3) Subject to subsection 2, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of

3c.—(1) The notice of a hearing by the Director under section 3a or section 3b shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(2) An applicant or licensee who is a party to proceed-of documentary ings in which the Director holds a hearing shall be evidence afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

3d. Where the Director has refused to issue or renew Variation or has suspended or revoked a licence pursuant to a by Director hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

3e.—(1) A board to be known as the "Live Stock Com-Review munity Sales Licence Review Board" is hereby established established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

- (2) A member of the Board shall hold office for not Term of office more than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remuneramuneration and expenses as the Lieutenant Governor in Council may determine.
- 3f.—(1) Where the Director refuses to issue or renew Appeal to or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.
- (2) The Board may extend the time for the giving of Extension of time for notice by an applicant or licensee under subsection 1. appeal

either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board (3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of decision pending disposal of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

3g.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c...

- (5) No member of the Board shall participate in a Only decision of the Board pursuant to a hearing unless at hearing to participate he was present throughout the hearing and heard the indecision evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 3h.—(1) Any party to the hearing before the Board may Appeal to appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under this be heard section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and the appeal court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.
- (5) Notwithstanding that an applicant or licensee has Effect of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the deci-disposal of sion of the Board is effective until the appeal is appeal disposed of.
- (3) Subsection 1 of section 11 of The Live Stock Com-R.S.O. 1960, munity Sales Act, as amended by subsection 1 of section 4 of subs. 1.

 The Live Stock Community Sales Amendment Act, 1965, is re-enacted repealed and the following substituted therefor:
 - (1) Subject to subsection 1a, the Director or an in-Powers of spector or a veterinarian may enter any premises for the purposes of enforcing this Act.
 - (1a) Except under the authority of a warrant under Dwellings section 14 of *The Summary Convictions Act*, the c. 387

 Director or an inspector or a veterinarian shall not enter any part of a dwelling without the consent of the occupant.

R.S.O. 1960, c. 221, s. 13, cl. c, repealed 1962-63, c. 76, s. 3 (1965, c. 64, s. 3), re-enacted

- (4) Clause c of section 13 of The Live Stock Community Sales Act is repealed.
- **54.**—(1) Section 3 of *The Loggers' Safety Act, 1962-63*, as re-enacted by section 3 of *The Loggers' Safety Amendment Act, 1965*, is repealed and the following substituted therefor:

Officers

3. There shall be an officer known as the chief officer and such other officers as are considered necessary for the administration of this Act and their duties shall be to ensure compliance with and to enforce the provisions of this Act and the regulations.

1962-63, c. 76, s. 4, re-enacted

- (2) Section 4 of *The Loggers' Safety Act, 1962-63* is repealed and the following substituted therefor:
 - 4. An officer may enter any land, building or other premises used for or in connection with logging at any reasonable hour for the purpose of carrying out his duties under this Act.

1962-63, c. 76, s. 6, re-enacted

(3) Section 6 of *The Loggers' Safety Act*, 1962-63, is repealed and the following substituted therefor:

Stop-work orders

- 6.—(1) Where an officer is of opinion that any provision of this Act or the regulations relating to safety in logging or in work in connection with logging is being contravened, he may give to the person so contravening or to his supervisor or foreman or to the operator or any of them such order in writing as is necessary to ensure compliance with such provision, and such order shall specify that it shall be carried out forthwith or before the expiry of such period as is specified therein, and,
 - (a) where the order specifies that it be carried out forthwith, all work or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with; or
 - (b) where the order specifies the period within which it is to be carried out and it is not carried out within that period, all work or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with.

Appeal

(2) Every person to whom an order of an officer under this section is directed, the operator employing such person or any person acting on behalf of the operator who is dissatisfied with the order may appeal to the district forester for the forestry district in which the logging or work to which the order relates is carried on who shall hear the appeal and may by order, affirm, vary or rescind the order of the officer.

- (3) The appellant from an order made under this section Parties and the officer making the order are parties to an appeal under this section.
- (4) An appeal under this section may be made in writ-How appeal ing or orally or by telephone to the district forester, but the district forester may require the grounds for appeal to be specified in writing before the hearing.
- (5) An order made by an officer under this section is Order binding and effective, notwithstanding that an appeal has been brought, until varied or rescinded by the district forester.
- (6) Every person to whom an order of an officer or Penalty district forester is directed under this section,
 - (a) who contravenes or who knowingly permits any person under his direction and control to contravene such order; or
 - (b) who carries on work or who knowingly permits any person under his direction or control to carry on work in contravention of subsection 1,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 a day for every day upon which the contravention continued.

- **55.**—(1) Section 12 of *The Marriage Act*, as amended by R.S.O. 1960, section 1 of *The Marriage Amendment Act*, 1964, is repealed re-enacted and the following substituted therefor:
 - 12.—(1) An applicant for a licence who has been Where dissolution of previously married is entitled to be issued a licence if former marriage such marriage has been dissolved or annulled and recognized such dissolution or annulment is recognized under the law of Ontario and the applicant otherwise complies with the requirements of this Act.
 - (2) Subject to subsection 6, no issuer shall issue a licence Material to be filed with to a person whose previous marriage has been dis-issuer where solved or annulled in Canada unless such person in Canada deposits with the issuer,

- (a) the final decree or judgment dissolving or annulling the marriage or a copy of the final decree or judgment or Act dissolving or annulling the marriage, certified by the proper officer; and
- (b) such other material as the issuer may require.

Where dissolution, etc., outside Canada

(3) Subject to subsection 6, no issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Provincial Secretary is obtained upon the deposit of such material as he may require.

Review of repeal to issue licence

1971, c. . . .

(4) Where an application for a licence by a person claiming to be entitled to be issued a licence under subsection 1 is refused by an issuer, or the Provincial Secretary refuses to issue an authorization under subsection 3, such person may make an application for judicial review under *The Judicial Review Procedure Act*, 1971 to the Supreme Court for an order directing that a licence be issued to him and if the court finds that he is so entitled it may make such an order.

Parties

(5) The applicant, the Provincial Secretary and such other persons as the court may order are parties to an application under subsection 4.

Issue of licence under court order (6) Where an applicant for a licence files with an issuer, together with his application, an order of the Supreme Court made on an application under subsection 4 directing that a licence be issued to him, the issuer shall issue the licence.

R.S.O. 1960, c. 228, s. 36, subs. 2, par. 6, re-enacted

- (2) Paragraph 6 of subsection 2 of section 36 of *The Marriage Act*, as amended by section 2 of *The Marriage Amendment Act*, 1964, is repealed and the following substituted therefor:
 - 6. Any documentary or other material filed on the application for a licence under section 12.

1962-63, c. 78, s. 1, amended

- **56.**—(1) Section 1 of *The Meat Inspection Act (Ontario)*, 1962-63 is amended by adding thereto the following clauses:
 - (aa) "Board" means the Meat Inspection Licence Review Board established by this Act;

- (da) "licence" means a licence under this Act;
- (2) Subsection 2, as amended by subsection 2 of section 3 of 1962-63, The Meat Inspection Amendment Act (Ontario), 1965, and subsection 3, subsection 3 of section 3 of The Meat Inspection Amendment Act (Ontario), 1965, of section 3 of The Meat Inspection Act (Ontario), 1962-63 are repealed.
- (3) The Meat Inspection Act (Ontario), 1962-63 is amended 1962-63, by adding thereto the following sections:
 - 3a.—(1) The Director shall issue a licence to a person Licence, who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business of operating a plant pursuant to the licence will not be carried on in accordance with law;
 - (b) the applicant does not possess or will not have available all premises, facilities and equipment necessary to engage in the business of operating a plant in accordance with this Act and the regulations; or
 - (c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
 - (2) Subject to section 3b, the Director shall renew a Renewal licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - 3b.—(1) The Director may refuse to renew or may sus-Refusal to pend or revoke a licence if, after a hearing, he is suspension of opinion that,
 - (a) the premises, facilities and equipment used in the business of operating a plant pursuant to the licence do not comply with this Act and the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any

person under his control or direction in connection with his business of operating a plant, to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder, or of any law applying to the carrying on of the business of operating a plant or the conditions for licensing and such contravention warrants such refusal to renew, suspension or revocation of the licence; or

(c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Provisional suspension,

(2) Notwithstanding subsection 1, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or animal or the public and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.

Continuation of licence pending renewal

(3) Subject to subsection 2, where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee, and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing

3c.—(1) The notice of a hearing by the Director under section 3a or section 3b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence (2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

- 3d. Where the Director has refused to issue or renew or Variation of has suspended or revoked a licence pursuant to a by Director hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interest of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.
- 3e.—(1) A board to be known as the "Meat Inspection Review Licence Review Board" is hereby established and established shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
- (2) A member of the Board shall hold office for not Term of more than five consecutive years.
- (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
- (4) A majority of the members of the Board constitutes Quorum a quorum.
- (5) The members of the Board shall receive such re-Remuneramuneration and expenses as the Lieutenant Governor in Council may determine.
- 3f.—(1) Where the Director refuses to issue or renew or Appeal to suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.
- (2) The Board may extend the time for the giving of Extension notice by an applicant or licensee under subsection 1, for appeal either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.
- (3) Where an applicant or licensee appeals to the Powers of Board under this section, the Board shall hear

the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of decision pending disposal of appeal (4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

3g.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, etc. (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Only members at hearing to participate in decision

- 3h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard, by counsel Minister or otherwise, upon the argument of an appeal under be heard this section.
- (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.
- (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and appeal the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Director or the Board.
- (5) Notwithstanding that an applicant or licensee has Effect of decision of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the decision disposal of the Board is effective until the appeal is disposed of.
- (3) Subsection 3 of section 4 of *The Meat Inspection Act* ¹⁹⁶²⁻⁶³, (Ontario), 1962-63, as amended by section 4 of *The Meat* ^{subs. 3}, Inspection Amendment Act (Ontario), 1965, is further amended by adding at the commencement thereof "Subject to subsection 4".
- (4) The said section 4 is amended by adding thereto the $^{1962-63}_{c.,78, s.4}$, following subsection:
 - (4) Except under the authority of a warrant under Power section 14 of *The Summary Convictions Act*, the dwelling Director or an inspector shall not enter any part of R.S.O. 1960, a dwelling without the consent of the occupant.
- 57. Subsection 1 of section 18 of The Mental Hospitals R.S.O. 1960, Act, as re-enacted by section 10 of The Mental Hospitals subs. 1 (1967, c. 52, Amendment Act, 1967, is repealed and the following sub-s. 10), stituted therefor:

Inquiry by Deputy Minister

(1) Where the Deputy Minister is authorized by the Minister to institute an inquiry into the management or affairs of an institution, or into any matter in connection therewith, or into the truth of any returns made by any officer thereof, the Deputy Minister has the powers of a commissioner under Part II of *The Public Inquiries Act*, 1971, which Part applies to the inquiry as if it were an inquiry under that Act.

1971, c. . . .

R.S.O. 1960, c. 241, s. 16, subs. 1, repealed **58.**—(1) Subsection 1 of section 16 of *The Mining Act*, as amended by subsection 1 of section 5 of *The Mining Amendment Act*, 1962-63, is repealed.

R.S.O. 1960, c. 241, s. 33, subss. 1, 2, re-enacted

(2) Subsections 1 and 2 of section 33 of *The Mining Act* are repealed and the following substituted therefor:

Revocation of licence

(1) Where the Commissioner finds, after a hearing, that a licensee has been guilty of a wilful contravention of any of the provisions of this Act or the regulations, the Minister may, on the recommendation of the Commissioner, revoke the licence of the licensee and a licence shall not thereafter be issued to such licensee without the authority of the Minister.

Suspension of licence

(2) Where a recorder finds, after a hearing, that a licensee has contravened any of the provisions of this Act or the regulations, the Minister may, upon the recommendation of the recorder, suspend the license of the licensee.

R.S.O. 1960, c. 241, s. 33, amended

(3) The said section 33, as amended by section 2 of *The Mining Amendment Act*, 1967, is further amended by adding thereto the following subsection:

Appeal

(4) A finding by the Commissioner that a licensee has wilfully contravened this Act or the regulations or by a recorder that a licensee has contravened this Act or the regulations, as the case may be, may be appealed in a like manner as any decision of the Commissioner or recorder, respectively, and the Minister shall give effect to the decision on the appeal.

R.S.O. 1960, c. 241, s. 96, subs. 3, amended

(4) Subsection 3 of section 96 of *The Mining Act* is amended by striking out "140" in the fourth line and inserting in lieu thereof "136".

R.S.O. 1960, c. 241, s. 98, subs. 1, re-enacted

(5) Subsection 1 of section 98 of *The Mining Act* is repealed and the following substituted therefor:

(1) Where the surface rights of land have been granted, Right of owner of sold, leased or located with reservation of mines, surface minerals or mining rights to the Crown, or where compensation land is occupied by a person who has made improvements thereon that in the opinion of the Minister entitles him to compensation, a licensee who prospects for mineral or stakes out a mining claim or an area of land for a boring permit or carries on mining operations upon such land shall compensate the owner, lessee, locatee or occupant for all injury or damage that is or may be caused to the surface rights by such prospecting, staking out or operations, and in default of agreement the amount and the manner and time of payment of compensation shall be determined by the Commissioner after a hearing, and, subject to appeal to the Supreme Court where the amount awarded exceeds \$1,000, his order is final.

- (6) Subsection 7 of section 118 of *The Mining Act* is R.S.O. 1960, repealed.
- (7) Part VII of *The Mining Act*, as amended by section 9 of R.S.O. 1960, The Mining Amendment Act, 1968, is further amended by Part VII (ss. 118-124), adding thereto the following section:
 - 118a.—(1) The Minister may refuse to renew or may suspend Suspension, or revoke a quarry permit on the grounds that,
 - (a) the permittee has contravened any provision of this Part;
 - (b) no operations have been carried on under the permit for a continuous period of more than six months;
 - (c) the permittee is not employing equipment that in the opinion of the Minister is proper and suitable for the operations pursuant to the permit; or
 - (d) the Minister considers the continuation of operations under the permit to be contrary to the public interest,

but, subject to subsection 8, before so doing he shall give the permittee notice of his intention to refuse to renew or to suspend or revoke the permit, together with written reasons therefor.

Notice requiring hearing

(2) A notice under subsection 1 shall inform the permittee that he is entitled to a hearing by the Mining Commissioner if he mails or delivers a notice in writing requiring such hearing to the Minister within fifteen days after the notice under subsection 1 is served on him, and the Minister, on receipt of a notice requiring a hearing, shall refer the matter to the Commissioner for a hearing.

Powers of Minister where no hearing

(3) Where a permittee does not require a hearing by the Commissioner in accordance with subsection 2, the Minister may carry out the intention stated in his notice under subsection 1.

Hearing

(4) Pursuant to a reference by the Minister under this section, the Commissioner shall hold a hearing as to whether the permit to which the hearing relates should be renewed or should be suspended or revoked, as the case may be, and the permittee and such other persons as the Commissioner may specify are parties to the hearing.

Application of 1971, c. . . .

(5) Sections 6 to 16 and sections 21 to 23 of *The Statutory Powers Procedure Act, 1971* apply in respect of a hearing under this section.

Report to Minister

(6) The Commissioner shall, at the conclusion of a hearing under this section, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the renewal, suspension or revocation of the permit to which the hearing relates, as the case may be, and shall send a copy of his report to the permittee to whom it relates.

Decision of Minister (7) After considering the report of the Commissioner under this section, the Minister may thereupon renew or refuse to renew, or suspend or revoke or refrain from suspending or revoking the permit to which the report relates and shall give notice of his decision to the permittee specifying the reasons therefor.

Provisional suspension, etc., of permit

(8) Notwithstanding anything in this section, the Minister, by notice to a permittee and without a hearing, may provisionally refuse renewal of or suspend the permittee's permit, where in the Minister's opinion the continuation of operations under the permit is in contravention of this Act, will cause damage to

property, or is an immediate threat to the public interest, and the Minister so states in the notice, giving his reasons therefor, and thereafter the Minister shall refer the matter to the Commissioner and subsections 3 to 6 apply and the provisional refusal or suspension terminates when the Minister's decision under subsection 6 becomes effective unless sooner terminated by the Minister.

- (8) Subsection 3 of section 125 of *The Mining Act* is $\frac{R.S.O. 1960}{c. 241}$, s. 125, repealed and the following substituted therefor: subs. 3, re-enacted
 - (3) Where the Commissioner is unable to perform his Acting Comduties because of illness, absence or for any other reason,
 - (a) the Minister may in writing appoint a person to exercise the powers of the Commissioner to make orders under section 92, but such person has only such powers of the Commissioner as are necessary for that purpose; or
 - (b) the Lieutenant Governor in Council may appoint a person to act in the stead of the Commissioner to perform the duties and exercise all the powers of the Commissioner under this Act.
 - (9) Section 128 of The Mining Act is repealed.

R.S.O. 1960, c. 241, s. 128, repealed

- (10) Clause c of subsection 1 of section 133 of *The Mining* R.S.O. 1960, c c. 241, s. 133, subs. 1, cl. c, repealed.
- (11) Subsection 1 of section 134 of *The Mining Act* is $^{\text{R.S.O. 1960}}_{\text{c. 241, s. 134}}$, amended by striking out "138" in the second line and insert-subs. 1, ing in lieu thereof "136".
- (12) Subsection 5 of the said section 134 is amended by R.S.O. 1960, striking out "138" in the second line and inserting in lieu subs. 5, amended thereof "136".
- (13) Sections 135 and 137, section 138, as amended by $^{\rm R.S.O.\,1960}_{\rm c.\,241,\,ss.\,135}$, section 10 of *The Mining Amendment Act, 1968*, and sections $^{\rm 137-141}_{\rm re-enacted}$ 139, 140 and 141 of *The Mining Act* are repealed and the re-enacted following substituted therefor:
 - 135.—(1) The recorder may give directions for the con-Directions as to conduct duct and carrying on of proceedings before him, and of proceedings in so doing he shall adopt the cheapest and simplest methods of determining the questions arising before

him that afford to all interested parties an adequate opportunity of knowing the issues in the proceedings and of presenting material and making representations on their behalf.

Reasons for decision

(2) The recorder shall give reasons for any decision made by him in proceedings before him.

Enforcement of decision

1971, c. . . .

(3) A copy of the final decision of a recorder may be filed in the office of the Registrar of the Supreme Court under section 19 of *The Statutory Powers Procedure Act, 1971*, which applies thereto.

Application of 1971, c. . . .

(4) Except as provided in subsection 3, *The Statutory Powers Procedure Act, 1971* does not apply to proceedings before the recorder.

Appeal to Commissioner 136.—(1) A person affected by a decision of or by any act or thing, whether ministerial, administrative or judicial, done, or refused or neglected to be done by a recorder may appeal to the Commissioner.

Appeal by Director (2) An appeal under subsection 1 may be taken by the Director or the Supervisor on his behalf where, in the opinion of the Minister, the public interest is affected, and no fee prescribed in the Schedule in respect of the appeal is payable by the Director or Supervisor.

How appeal instituted

(3) An appeal to the Commissioner shall be by notice in writing in the prescribed form, filed in the office of the recorder from whom the appeal is being taken and served upon all parties interested within fifteen days from the entry of the decision on the books of the recorder or the doing by the recorder of the act or thing appealed from, or within such further period of not more than fifteen days as the Commissioner may allow, but if the notice of appeal has been filed with the recorder within such time and the Commissioner is satisfied that it is a proper case for appeal and that after reasonable effort any of the parties entitled to notice could not be served within such time, the Commissioner may extend the time for appealing and make such order for substitutional or other service as he considers just, or if a person affected has not been notified as provided in sections 96 and 134, and appears to have suffered substantial injustice and has not been guilty of undue delay, the Commissioner may allow such person to appeal.

- (4) The notice of appeal shall contain or have endorsed Service of upon it an address in Ontario at which the appellant appeal may be served with any notice or document relating to the appeal, and any such notice or document is sufficiently served upon the appellant if it is left with a grown-up person at such address or, where no such person can there be found, if sent by registered mail addressed to the appellant at such address.
- (5) If no address for service is given as provided in Where no subsection 4, any such notice or document may be service served upon the appellant by posting it up in the recorder's office.

137. The Commissioner shall determine,

Hearing

- (a) an appeal from a recorder, after a hearing by way of a hearing de novo; and
- (b) a dispute referred to in section 64 or a claim, question, dispute or other matter within his jurisdiction after a hearing,

pursuant to an appointment fixing the time and and place for the hearing.

- 138.—(1) Application to the Commissioner for an appoint-Application for a hearing may be made by any party to the ment for proceeding and may be verbal or written or may be ex parte or upon such notice to such persons as the Commissioner may direct.
 - (2) The Commissioner may fix such time for a hearing Time for as will permit the matter to be disposed of as promptly as possible, allowing adequate time to the parties to prepare their cases but, unless all parties consent thereto, the hearing shall be held not less than ten days after service of the appointment for the hearing on the parties.
 - (3) The Commissioner shall select as the place for a Place for hearing such place as he considers most convenient for the parties in the county or district or one of the counties or districts in which the lands or mining rights affected are situate unless it appears to him desirable that the hearing should be in some other county or district.

Leave for hearing

(4) In any matter or proceeding, other than an appeal, the Commissioner may, if a certificate of record has been issued, require the applicant for an appointment to satisfy him that there is reasonable ground for the application or, in any such case or in any case where leave to take the proceeding is necessary, may give the appointment or leave only upon such terms as to security for costs or otherwise as he considers just.

Service of appointment for hearing 139.—(1) The Commissioner shall cause a copy of an appointment for a hearing before him to be served upon all parties, which shall, except in the case of an appeal or a dispute under section 64, state briefly the particulars of the right or question in issue or of the dispute.

Hearing may proceed in absence of party (2) The appointment shall state that if a person has been served does not attend the hearing, the Commissioner may proceed in his absence and he is not entitled to notice of any further proceedings.

Service deemed compliance with 1971, c. . . .

(3) Service by registered mail of the appointment and of the notice, if any, required under subsection 1 shall be a sufficient compliance with section 6 of *The Statutory Powers Procedure Act*, 1971.

Directions of Commissioner re proceedings

- 140.—(1) Sections 138 and 139 apply notwithstanding *The Statutory Powers Procedure Act, 1971* and, subject to that Act, the Commissioner may,
 - (a) give directions for having any matter or proceeding heard and decided without unnecessary formality;
 - (b) order the filing or serving of statements, particulars, objections or answers, the production of documents and things, and the making of amendments;
 - (c) give such other directions respecting the procedure and hearing as he considers proper;
 - (d) make any appointment, notice or other proceeding returnable forthwith or at such time as he considers proper; and
 - (e) order or allow such substituted or other service as he considers proper.

- (2) The Commissioner may take or order the evidence Taking of of any witness to be taken at any place in or out of Ontario.
- 141. Notwithstanding The Statutory Powers Procedure Act, Decision 1971, the Commissioner may hear and dispose of any missioner application not involving the final determination of the matter or proceeding, either ex parte or on notice, at any place he considers convenient, and his decision upon any such application is final and is not subject to appeal but, where the Commissioner makes his decision ex parte he may subsequently reconsider and amend such decision.
- (14) Part VIII of *The Mining Act*, as amended by sections R.S.O. 1960, 38 and 39 of *The Mining Amendment Act*, 1962-63, section 8 Part VIII of *The Mining Amendment Act*, 1965, sections 16 and 17 of amended The Mining Amendment Act, 1967 and section 10 of The Mining Amendment Act, 1968, is further amended by adding thereto the following section:
 - 143a. Where the Commissioner receives any opinion, Disclosure report or evidence under section 142 or 143 in anyto parties proceeding before him, the opinion, report or evidence shall be disclosed to the parties to the proceeding who, if they so request, shall be afforded an opportunity of cross-examining the person expressing the opinion, making the report or giving the evidence.
- (15) Section 148 of *The Mining Act* is repealed and the $^{\rm R.S.O.~1960}_{\rm c.~241,~s.~148}$, following substituted therefor:
 - 148. The evidence taken before the Commissioner shall Recording be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (16) Subsection 2 of section 152 of *The Mining Act* is R.S.O. 1960, c. 241, s. 152, repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) The order or judgment of the Commissioner, with the Documents to be filed evidence, exhibits, the statement, if any, of view in recorder's or of special knowledge or skill, and the reasons for his decision shall be filed in the office of the recorder of the division in which the property in question or part of it is situate or, where section 21 applies, with the Deputy Minister, and the recorder or Deputy Minister shall forthwith give notice in writing of the filing by registered mail or otherwise to the solicitors of the parties appearing by solicitor and to parties not represented by a solicitor.

R.S.O. 1960, c. 241, Part VIII (ss. 125-160),

(17) Part VIII of The Mining Act is further amended by adding thereto the following section:

amended Stay of proceedings

1971, c. . . .

154a. Where a certified copy of a final decision of a recorder has been filed in the office of the Registrar of the Supreme Court under section 19 of The Statutory Powers Procedure Act, 1971, the Commissioner or the court or a judge thereof may stay proceedings therein if an appeal from the decision is brought until final disposition of the appeal.

R.S.O. 1960, c. 241, s. 156, re-enacted

(18) Section 156 of The Mining Act is repealed and the following substituted therefor:

Time for appeal R.S.O. 1960, c. 18

156.—(1) Except in the case of a reference under section 131 or The Arbitrations Act, the order or judgment of the Commissioner is final and conclusive unless, where an appeal lies, it is appealed from within fifteen days after the filing thereof in accordance with section 152, or within such further period of not more than fifteen days as the Commissioner or a judge of the Supreme Court may allow.

Notice of appeal

(2) The appeal shall be begun by filing a notice of appeal with the recorder with whom the order or judgment appealed from is filed under section 152 or, where section 21 applies, with the Deputy Minister, paying to him the prescribed fee and filing the notice of appeal with the Registrar of the Supreme Court and, unless the notice of appeal is filed with the Registrar of the Supreme Court and a certificate of such filing is lodged with the recorder or Deputy Minister within five days after the expiration of such fifteen days, or any further time allowed under subsection 1, the appeal shall be deemed to be abandoned

Transmission of documents (3) The recorder or, where section 21 applies, the Deputy Minister shall, forthwith after the filing of the notice of appeal and payment of the prescribed fee, transmit by registered mail or by express to the office of the Registrar of the Supreme Court, Toronto, the order or judgment appealed from and all the exhibits. papers and documents filed therewith.

Extension order

(4) Where the time for appealing is extended under subsection 1, the appellant shall forthwith transmit the order for the extension or a duplicate thereof by registered mail to the recorder, or where section 21 applies, to the Deputy Minister.

- (5) The practice and procedure on an appeal including Practice the form of notice of appeal, service of the notice of appeal on the parties, and the disposition of costs on an appeal, shall be governed by the rules of court.
- (19) Section 157 of *The Mining Act* is repealed and the R.S.O. 1960, following substituted therefor:
 - 157.—(1) No proceedings by way of an application for Judicial judicial review under *The Judicial Review Procedure* 1971, c. . . . *Act, 1971*, or, except in proceedings provided for under this Act, by way of other proceedings whatsoever, may be brought to call into question,
 - (a) any decision made or purporting to have been made by a recorder under this Act, more than thirty days after entry of the decision by the recorder in the books of his office;
 - (b) any order or judgment given or made or purporting to have been given or made by the Commissioner under this Act, more than thirty days after filing of the order or judgment of the Commissioner in accordance with section 152; or
 - (c) the validity of any act or thing done or purporting to have been done under this Act by the recorder or by any other officer appointed under this Act, more than thirty days after the time when such act or thing was done.
 - (2) Notwithstanding anything in *The Judicial Review* No extension *Procedure Act, 1971*, no court may extend any limitation of time fixed in subsection 1.
- (20) Section 158 of *The Mining Act* is repealed and the R.S.O. 1960. following substituted therefor:
 - 158. Where the validity of a proceeding before the Com-Defects in missioner or a recorder is called into question in any court on the ground of any defect of form or substance or failure to comply with this Act or the regulations, notwithstanding that such defect or failure is established, the court shall not, if no substantial wrong or injustice has been thereby done or occasioned, invalidate the proceeding by reason thereof, but shall confirm the proceeding, and, upon

such confirmation, the proceeding shall be and be deemed to have been valid and effective from the time when it would otherwise have been effective but for such defect or failure.

R.S.O. 1960, c. 241, Part X (1961-62, c. 81, s. 1), amended

(21) Part X of *The Mining Act*, as re-enacted by section 1 of *The Mining Amendment Act*, 1961-62, is amended by adding thereto the following section:

Reference for hearing and report

615a.—(1) Before refusing to renew, or suspending, cancelling or revoking a refinery licence or certificate of exemption under section 615, the Minister shall refer the matter to a person appointed by him for a hearing and report.

Hearing

(2) Where a matter is referred by the Minister under subsection 1, the person appointed shall hold a hearing as to whether the refinery licence or certificate of exemption to which the hearing relates should be renewed or should be suspended, cancelled or revoked, as the case may be, and the licensee or certificate holder and such other persons as the person holding the hearing may specify are parties to the hearing.

Application of 1971, c. . . .

(3) Sections 6 to 16 and sections 21, 22 and 23 of *The Statutory Powers Procedure Act, 1971* apply in respect of a hearing under this section.

Report

(4) The person holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations, any conclusions of law he has arrived at relevant to these recommendations, and his recommendations as to the renewal, suspension, cancellation or revocation of the refinery licence or certificate of exemption, as the case may be, and shall send a copy of his report to the licensee or certificate holder to whom it relates.

Decision of Minister

(5) After considering a report made under this section, the Minister shall thereupon decide whether or not to refuse to renew or to suspend, cancel or revoke the refinery licence or certificate of exemption to which the report relates, and shall give notice of his decision to the licensee or certificate holder specifying the reasons therefor.

R.S.O. 1960, c. 241, s. 619 (1961-62, c. 81, s. 1), re-enacted (22) Section 619 of *The Mining Act*, as re-enacted by section 1 of *The Mining Amendment Act*, 1961-62, is repealed and the following substituted therefor:

- 619. The Minister may appoint any person to conduct an Inquiry of complaints inquiry into any charge or complaint that a person has contravened any of the provisions of this Part or into any matter or thing connected with or arising out of the operation of this Part, and such person, for the purposes of the inquiry, has the powers of a commission under Part II of The Public 1971, c. ... Inquiries Act, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.
- (23) Clause d of subsection 1 of section 647 of The Mining R.S.O. 1960, c. 241, s. 647, subs. 1, cl. d, repealed.
- (24) Subsection 3 of section 653 of *The Mining Act* is $^{R.S.O.\ 1960}_{c.\ 241,\ s.\ 653}$, repealed and the following substituted therefor: subs. 3, re-enacted
 - (3) An order made under this section shall be served Service of in such manner as the Commissioner directs.
 - (3a) If a co-owner, upon whom an order made under sub-Dispute as to section 1 has been served, disputes his liability to his co-owner or otherwise to make any payment under the order or the amount thereof, he may, within the time limited by the order for making the payment, apply to the Commissioner for a hearing and the Commissioner shall, after a hearing, determine the dispute and may affirm, amend or rescind the order or make such other order as he considers just, and, if the Commissioner orders that a payment be made, he may fix the time for payment thereof.
 - (3b) Where the time for payment fixed by an order made Vesting under subsection 1 has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection 3a has expired, and where such additional time, if any, as has been granted by the Commissioner has expired, if it is proved to the satisfaction of the Commissioner that the payment has not been made, he may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the rents or made the expenditure.
- (25) Section 669 of *The Mining Act* is repealed and the follow- $^{\rm R.S.O.~1960}_{\rm c.~241,~s.~669}$, ing substituted therefor:
 - 669.—(1) Any person claiming an interest in any lands or missioner may settle mining rights entered on the tax roll or whose name dispute

has been entered on the tax roll, as being liable to the acreage tax or who disputes the amount of the tax levied on any lands or mining rights in which he has an interest may apply to the Commissioner to determine whether such lands and mining rights are or whether he is liable to the acreage tax and to be entered on the tax roll or the amount of the tax payable, and the Commissioner shall hear and determine such matter.

Minister to be party

(2) The Minister is a party to any proceedings before the Commissioner under this section.

Omissions from tax roll (3) The Minister may refer to the Commissioner for hearing and adjudication any question or dispute as to whether any mining rights or lands have or any person has been wrongfully omitted from the tax roll.

R.S.O. 1960, c. 241, s. 670, subs. 3, re-enacted (26) Subsection 3 of section 670 of *The Mining Act* is repealed and the following substituted therefor:

Service of order

(3) An order made under this section shall be served in such manner as the Commissioner may direct.

Disputes as to liability

(3a) If a co-owner, upon whom an order made under subsection 1 has been served, disputes his liability to his co-owner or otherwise to make any payment under the order or the amount thereof, he may, within the time limited by the order for making the payment, apply to the Commissioner for a hearing and the Commissioner shall hear and determine the dispute and may affirm, amend or rescind the order or make such other order as he considers just, and, if the Commissioner orders that a payment be made, he may fix the time for payment thereof.

Vesting order (3b) Where the time for payment fixed by an order made under subsection 1 has expired and no application for determination of a dispute has been made, or where the time fixed by an order made under subsection 3a has expired, and where such additional time, if any, as has been granted by the Commissioner has expired, if it is proved to the satisfaction of the Commissioner that the payment has not been made, he may make an order vesting the interest of the delinquent co-owner or co-owners in the lands or mining rights to which the payment relates in the co-owner or co-owners who has or have paid the taxes.

- **59.**—(1) Section 1 of *The Mortgage Brokers Act, 1968-69* $_{c.71, s.1.}^{1968-69}$ is amended by relettering clause a as clause aa and by $_{amended}^{amended}$ adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;
 - (ba) "dwelling" means any premises or any part thereof occupied as living accommodation.
- (2) Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 1968-69, 19 and 20 of *The Mortgage Brokers Act*, 1968-69 are repealed re-enacted; and the following substituted therefor:
 - 5.—(1) An applicant is entitled to registration or re-Registration of mortgage newal of registration by the Registrar except where, brokers
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
 - (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.
 - (2) A registration is subject to such terms and con-Conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.

Refusal to register 6.—(1) Subject to section 7, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5.

Revocation

(2) Subject to section 7, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke 7.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing (2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.

Powers of Registrar where no hearing (3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

Powers of Tribunal where hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal, or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

- (7) Notwithstanding subsection 1, the Registrar may Voluntary cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.
- (8) Where, within the time prescribed therefor or, if no Continuation of registration time is prescribed, before expiry of his registration, tion pending a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.
- (9) Notwithstanding that a registrant appeals from an Order of order of the Tribunal under section 8e of The Depart- effective, stay ment of Financial and Commercial Affairs Act, 1966, 1966, c. 41 the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.
- (3) Clause a of subsection 1 of section 24 of *The Mortgage* 1968-69, c. 71, s. 24, Brokers Act, 1968-69 is repealed and the following substituted subs. 1, cl. a, therefor:
 - (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and
- (4) Section 25 of *The Mortgage Brokers Act*, 1968-69 is ¹⁹⁶⁸⁻⁶⁹, repealed and the following substituted therefor:
 - 25. The Minister may by order appoint a person to Investigations on make an investigation into any matter to which this order of Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to 1971, c. ... such investigation as if it were an inquiry under that Act.

Investigations by Director

- 25a.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,
 - (a) contravened any of the provisions of this Act or the regulations;

1953-54, c. 51, (Can.)

- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act;
- (c) by any false, misleading or deceptive statement or advertisement, representation or promise, or by any dishonest concealment of material facts, induced or attempted to induce any person to borrow money or to be responsible for the repayment thereof or to agree to the terms of any transaction with respect to money lent on the security of a mortgage; or
- (d) induced or attempted to induce any person to pay or be responsible for the payment of excessive or exorbitant fees or expenses in connection with a loan on the security of a mortgage,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence or such conduct has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

- (2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,
 - (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
 - (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated

in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of The Public Inquiries Act, 1971, c. 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

- (3) No person shall obstruct a person appointed to make Obstruction an investigation under this section or withhold from investigator him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.
- (4) Where a provincial judge is satisfied, upon an ex Search parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subjectmatter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.
- (5) Any person making an investigation under this Removal of books, etc. section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters confidential

- 25b.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 22, 23, 24, 25 or 25a shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
 - (b) to his counsel; or
 - (c) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceedings with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

1968-69, c. 71, s. 26, subs. 1, re-enacted (5) Subsection 1 of section 26 of *The Mortgage Brokers Act*, 1968-69 is repealed and the following substituted therefor:

Order to refrain from dealing with assets

- 26.—(1) Where,
 - (a) an investigation of any person has been ordered under section 25a; or
 - (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out

of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed R.S.O. 1960, under the Bankruptcy Act (Canada), The Judicature 1970, c. 25 Act, The Corporations Act, The Business Corporations Act, 1970 or the Winding-up Act (Canada) or until cc. 14, 296 the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

(6) The said section 26 is amended by adding thereto the 1968-69, c. 71, s. 26, amended

(5) Any person referred to in clause a or b of subsection Cancellation of direction 1 in respect of whom a direction has been given or registration by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

(7) Section 28 of *The Mortgage Brokers Act*, 1968-69 is 1968-69, c. 71, s. 28, repealed and the following substituted therefor:

False advertising 28. Where the Registrar believes on reasonable and probable grounds that a mortgage broker is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

1968-69, c. 71, s. 29, subs. 2, re-enacted

(8) Subsection 2 of section 29 of *The Mortgage Brokers Act*, 1968-69 is repealed and the following substituted therefor:

Where service deemed to be made (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

1968-69, c. 71, s. 32, cl. *d*, amended (9) Clause d of section 32 of The Mortgage Brokers Act, 1968-69 is amended by striking out "or to any such person, document or material" in the second and third lines.

R.S.O. 1960, c. 268, s. 1, amended

- **60.**—(1) Section 1 of *The Oleomargarine Act* is amended by relettering clause a as clause ad and by adding thereto the following clauses:
 - (a) "chief inspector" means the chief inspector appointed under this Act;

1965, c. 72

- (ab) "Commission" means The Milk Commission of Ontario established by The Milk Act, 1965;
- (ac) "licence" means a licence under this Act.

R.S.O. 1960, c. 268, s. 6, subs. 1, re-enacted

(2) Subsection 1 of section 6 of *The Oleomargarine Act* is repealed and the following substituted therefor:

Licence required

(1) No person shall manufacture or sell by wholesale oleomargarine without a licence therefor from the chief inspector.

R.S.O. 1960, c. 268, amended (3) The Oleomargarine Act is amended by adding thereto the following sections:

- 6a.—(1) The chief inspector shall issue a licence to a Licence, person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing,
 - (a) he finds that,
 - (i) the applicant was previously the holder of a licence and such licence was cancelled under this Act, or
 - (ii) the applicant or, where the applicant is a corporation, any officer or director thereof or any person who will be associated with the applicant in the operations pursuant to the licence was convicted of an offence under this Act,

and in his opinion the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

- (b) he is of opinion that,
 - (i) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law, or
 - (ii) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
- (2) Subject to section 6b, the chief inspector shall renew Renewal a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 6b.—(1) The chief inspector may refuse to renew or may suspend or cancel a licence if, after a hearing, he finds that,
 - (a) the licensee or, where the licensee is a cor-Refusal to renew, poration, any officer, director or servant there-suspension of, has contravened or has permitted any lation person under his control or direction or associated with him in connection with his or its operations as a licensee to contravene any provision of this Act or the regulations or a term or condition of the licence or has been

convicted of an offence under this Act and such contravention or conviction in his opinion warrants such refusal to renew, suspension or cancellation of the licence; or

(b) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection 1, the chief inspector, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the opinion of the chief inspector it is necessary to do so for the immediate protection of the safety or health of any person or the public and and he so states in such notice giving his reasons therefor, and thereafter the chief inspector shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where, within the time prescribed or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal.

Notice of hearing 6c.—(1) The notice of a hearing by the chief inspector under section 6a or section 6b shall afford the applicant or licensee reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by chief inspector 6d. Where the chief inspector has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was

the applicant or licensee vary or rescind his decision, but he shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

6e.—(1) Where the chief inspector refuses to issue or Appeal to Commission renew, or suspends or cancels a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Commission within fifteen days after receipt of the decision of the chief inspector, appeal to the Commission.

(2) The Commission may extend the time for the giving Extension of notice by an applicant or licensee under sub- for appeal section 1, either before or after expiration of such time, where it is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension.

- (3) Where an applicant or licensee appeals to the Powers of Commission Commission under this section, the Commission shall hear the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and as the Commission considers proper and, for such purpose, the Commission may substitute its opinion for that of the chief inspector.
- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending disposal of chief inspector, unless the chief inspector otherwise appeal directs, the decision of the chief inspector is effective until the appeal is disposed of.
- 6f.—(1) The chief inspector, the appellant and such other Parties persons as the Commission may specify are parties to the proceedings before the Commission under this Act.
- (2) Members of the Commission assigned to render a Members decision after a hearing shall not have taken part decision prior to the hearing in any investigation or con-have taken part in not to prior to the subject-matter of the hearing and investigashall not communicate directly or indirectly in rela-tion, etc.

tion to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Commission at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(4) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

Only members at hearing to participate in decision

(5) No member of the Commission shall participate in a decision of the Commission pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

Appeal to court

6g.—(1) Any party to proceedings before the Commission may appeal from the decision of the Commission to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this section.

Record to be filed in court

(3) The chairman of the Commission shall certify to the Registrar of the Supreme Court the record of the proceedings before the Commission which, together with a transcript of the evidence before the Commission, if it is not part of the Commission's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Commission or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Commission for reconsideration by

the Commission as the court considers proper and the court may substitute its opinion for that of the chief inspector or the Commission.

- (5) Notwithstanding that an applicant or licensee has Effect of decision of appealed under this section from a decision of the Commission Commission, unless the Commission otherwise directs, disposal the decision of the Commission is effective until the appeal is disposed of.
- (4) Subsection 1 of section 8 of *The Oleomargine Act* is R.S.O. 1960, repealed and the following substituted therefor:

 Subs. 1, re-enacted
 - (1) The Lieutenant Governor in Council may appoint a Inspectors, chief inspector and such inspectors and analysts as are considered necessary for the administration and enforcement of this Act and the regulations.
- **61.**—(1) The Ontario Food Terminal Act is amended by R.S.O. 1960, adding thereto the following section:
 - 12a. Where the Board refuses an approval requested under Appeal to section 12, the applicant for approval may appeal from the decision of the Board to the Minister who, after affording the applicant an opportunity to make representations, may confirm, rescind or alter the decision of the Board as the Minister considers proper, and the decision of the Minister is final.
- (2) Section 14 of *The Ontario Food Terminal Act* is amended $^{R.S.O.\,1960}_{c.\,272,\,s.\,14}$, by adding thereto the following subsection:
 - (2) No rule hereafter made under subsection 1 takes Approval of effect until it is approved by the Minister.
- **62.**—(1) Section 5a of The Ontario Highway Transport R.S.O. 1960, Board Act, as enacted by section 3 of The Ontario Highway (1961-62, Transport Board Amendment Act, 1961-62, is repealed and the re-enacted following substituted therefor:
 - 5a.—(1) The chairman may authorize one member of One member the Board to hear and dispose of any application or may be authorized reference to the Board, and such member may to hear exercise all the powers of the Board with respect to the hearing and disposal of such application or reference.
 - (2) Any decision or report of a member of the Board Decision of made under subsection 1 shall be deemed to be a decision or report of the Board for the purposes of this Act.

R.S.O. 1960, c. 273, s. 9, repealed (2) Section 9 of The Ontario Highway Transport Board Act is repealed.

R.S.O. 1960, c. 273, s. 11, subs. 1, re-enacted (3) Subsection 1 of section 11 of *The Ontario Highway Transport Board Act* is repealed and the following substituted therefor:

Members of Board not personally liable (1) No member of the Board and no officer, agent or employee of the Board is personally liable for anything done by him in good faith under the authority of this Act or the regulations.

Crown not relieved of liability

1962-63, c. 109

(1a) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, 1962-63, relieve the Crown of liability in respect of a tort to which it would otherwise be subject, and the Crown is liable under that Act for any tort in a like manner as if subsection 1 had not been enacted.

R.S.O. 1960, c. 273, amended

(4) The Ontario Highway Transport Board Act is amended by adding thereto the following sections:

Application of 1971, c. . . . to hearings

17a.—(1) Sections 4 to 24 of *The Statutory Powers Procedure Act, 1971* apply with respect to any hearing by the Board and the proceedings relating thereto.

Parties to rehearing

(2) Where the Board holds a rehearing under section 16, the parties to the proceedings relating to the rehearing are the persons who were parties to the initial hearing and such other persons as the Board may specify.

Members making decision not to have taken part in prior investigation

- 17b.—(1) Members of the Board assigned to render a decision or report after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or any party or his representative except upon notice to and opportunity for all parties to participate, but such members may without such notice.
 - (a) consult with other members of the Board; and
 - (b) seek legal advice from a legal adviser independent of the parties but in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

- (2) The findings of fact by the Board pursuant to a hearing Findings shall be based exclusively on the evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971.* 1971, c. ...
- (3) The oral evidence admitted at a hearing by the Board Recording relating to the suspension or cancellation of an operating licence or the issue or cancellation of a vehicle licence under *The Public Vehicles Act* or *The R.S.O.* 1960, cc. 337, 319, *Public Commercial Vehicles Act* shall be taken down in 125 writing or by any other method authorized by *The Evidence Act*.
- (4) No member of the Board shall be a party to a Only decision or report of the Board made after a hearing at hearing to participate unless he was present throughout the hearing and in decision heard the evidence and arguments of the parties and no decision or report, except with the consent of the parties, shall be given unless all members so present participate in the decision or report.
- (5) Section 19 of *The Ontario Highway Transport Board Act* R.S.O. 1960, is repealed and the following substituted therefor: re-enacted
 - 19.—(1) The Board shall, at the request of the Lieutenant Stated Governor in Council, or may, of its own motion or upon the application of any party to proceedings before the Board, state a case in writing for the opinion of the Supreme Court upon any question of law.
 - (2) If, on the application of a party to proceedings be-Where fore it, the Board refuses to state a case under refuses to subsection 1, such party may apply to the Supreme Court for an order directing the Board to state such a case.
 - (3) The Supreme Court shall hear and determine any Determinacase stated to it under this section and remit it to the Board with the opinion of the court thereon.
- (6) Subsection 1 of section 21 of *The Ontario Highway* R.S.O. 1960, *C. 273*, s. 21, *Transport Board Act* is repealed and the following substituted subs. 1, re-enacted therefor:
 - (1) An appeal lies from the Board to the Supreme Appeal on questions of Court from any decision, order or report of the jurisdiction Board upon any question of jurisdiction or upon any question of law, but no such appeal lies unless

leave to appeal is obtained from the court within one month of the making of the decision or order sought to be appealed from or within such further time as the court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal.

R.S.O. 1960, c. 273, s. 23, subs. 1, re-enacted

(7) Subsection 1 of section 23 of *The Ontario Highway Transport Board Act* is repealed and the following substituted therefor:

Practice and procedure

(1) The Lieutenant Governor in Council may make regulations governing the practice and procedure in proceedings before the Board.

1961-62, c. 93, ss. 12, 13, re-enacted **63.** Sections 12 and 13 of *The Ontario Human Rights Code*, 1961-62 are repealed and the following substituted therefor:

Complaints

12.—(1) Any person who has reasonable grounds for believing that any person has contravened a provision of this Act may file with the Commission a complaint in the form prescribed by the Commission.

Consent of offended person

(2) Where a complaint is made by a person other than the person whom it is alleged was dealt with contrary to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto.

Inquiry and settlement

13.—(1) Where a complaint has been filed with the Commission, the Commission or a person designated by it shall inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Access to premises

(2) For the purposes of an inquiry under subsection 1, the Commission, or any person so designated on production of evidence of his designation, shall have access to and may view the premises involved in the complaint, other than an occupied place of residence, at all reasonable times and at any time when the premises are open for business or when employees are engaged in their work.

Warrant

(3) Where a justice of the peace is satisfied by information upon oath that there is reasonable ground for believing that access to an occupied place of residence is required for the purposes of an inquiry under this Act, he may, at any time issue a warrant pursuant to section 14 of *The Summary Convictions Act* authorizing the Commission or other person named therein

R.S.O. 1960, c. 387 to enter and view such place of residence and every such warrant shall be executed between sunrise and sunset, unless the justice otherwise directs.

(4) The Commission or a person designated by it, has Inspection of the same powers for the purposes of an inquiry under this section to inspect and examine books, payrolls, records and other documents and to take extracts or copies thereof, and to enter premises and to question employees as are possessed by the Director of Employment Standards under section 33 of The Employment Standards Act, 1968.

13a.—(1) Where it appears to the Commission that a Board of complaint will not be settled, the Commission shall make a recommendation to the Minister as to whether or not a board of inquiry should be appointed, and the Minister may, in his discretion, appoint a board of inquiry consisting of one or more persons to hear and decide the complaint.

- (2) Forthwith after the appointment of a board of inquiry, Parties to be the Minister shall communicate the names of the membership of board to,
 - (a) the Commission; and
 - (b) the parties referred to in clauses b, c and d of subsection 1 of section 13b,

and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

- (3) The Lieutenant Governor in Council may determine Remuneration of the chairman and the members members of a board of inquiry appointed under this section.
- 13b.—(1) The parties to a proceeding before a board of Parties to inquiry with respect to any complaint are,
 - (a) the Commission, which shall have the carriage of the complaint;
 - (b) the person named in the complaint as the complainant;
 - (c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;

- (d) any person named in the complaint as alleged to have contravened this Act; and
- (e) any other person specified by the board upon such notice as the board may determine and after such person has been given an opportunity to be heard against his joinder as a party.

Copy of complaint annexed to notice (2) A true copy of the complaint shall be annexed to the notice of the hearing that is given to any party except the Commission.

Members at hearing not to have taken part in investigation, etc. (3) A member of the board hearing a complaint, shall not have taken part in any investigation or consideration of the complaint prior to the hearing and shall not communicate directly or indirectly in relation to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(4) The oral evidence taken before a board at a hearing shall be recorded, and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (5) The findings of fact of the board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

1971, c. . . .

of board

Jurisdiction

(6) Subject to appeal under section 13d, the board of inquiry has exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.

Powers of board

- 13c. The board, after hearing a complaint,
 - (a) shall decide whether or not any party has contravened this Act; and

- (b) may order any party who has contravened this Act to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision and to rectify any injury caused to any person or to make compensation therefor.
- 13d.—(1) Any party to a hearing before a board may Appeal from appeal from the decision or order of the board to the board Supreme Court in accordance with the rules of court.
 - (2) Where notice of an appeal is served under this section, Record to be the board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made, which, together with a transcript of the oral evidence taken before the board if it is not part of the record of the board, shall constitute the record in the appeal.
 - (.3) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under this to be heard section.
 - (4) An appeal under this section may be made on Powers of court questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act and the court may substitute its opinion for that of the board.
- **64.**—(1) Subsection 1 of section 24 of *The Operating* ^{1965, c. 92, 8. 24, subs. 1, Engineers Act, 1965 is amended by adding at the commence-amended ment thereof "Subject to section 24a".}
 - (2) Subsections 2 and 3 of the said section 24 are repealed. 1965, c. 92, s. 24, subss. 2, 3, repealed
- (3) The Operating Engineers Act, 1965 is amended by adding $_{\rm amended}^{1965, c. 92}$, thereto the following sections:
 - 24a.—(1) Where the Board proposes to refuse to renew or Notice of proposes to suspend or cancel a certificate of qualifica-suspend, etc., tion, it shall serve notice of its proposal, together with written reasons therefor, on the holder of the certificate.
 - (2) A notice under subsection 1 shall inform the holder Hearing of the certificate that he is entitled to a hearing by a judge if he applies therefor to a judge of the county or

district court for the county or district in which he resides within fifteen days after the notice under subsection 1 is served on him and he may so apply for such a hearing.

Powers of Board where no hearing (3) Where a holder of a certificate does not apply to a judge for a hearing in accordance with subsection 2, the Board may carry out the proposal stated in its notice under subsection 1.

Powers of Board where hearing (4) Where a holder of a certificate applies to a judge for a hearing in accordance with subsection 2, the judge shall appoint a time for and hold the hearing and, on the application of the Board at the hearing, may by order direct the Board to carry out its proposal or refrain from carrying out its proposal and to take such action as the judge considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Board.

Service of notice by Board (5) The Board may serve notice under subsection 1 personally or by registered mail addressed to the holder of the certificate at his address last known to the Board and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for application

(6) A judge to whom application is made by a holder of a certificate for a hearing under this section, may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are prima facie grounds for granting relief to the holder of the certificate pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension.

Continuation of certificate pending renewal

- (7) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his certificate, a holder of a certificate has applied for renewal of his certificate and paid the prescribed fee, his certificate shall be deemed to continue.
 - (a) until the renewal is granted; or

- (b) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision.
- 24b.—(1) The Board, the holder of the certificate who has Parties applied for the hearing and such other persons as are specified by the judge are parties to the proceedings before a judge under section 24a.
 - (2) Notice of a hearing under section 24a shall afford to Notice of the holder of the certificate a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the certificate.
 - (3) A holder of a certificate who is a party to pro-Examination ceedings under section 24a shall be afforded an oppor-mentary evidence tunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
 - (4) The oral evidence taken before the judge at a hearing Recording shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
 - (5) The findings of fact of a judge pursuant to a hearing Findings shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.
- (4) Section 25 of *The Operating Engineers Act*, 1965 is \$\frac{1965}{s. 25}\$, repealed and the following substituted therefor:
 - 25.—(1) Any party to proceedings before a judge under Appeal from section 24a may appeal from the decision or order of judge to the judge to the Supreme Court in accordance with the rules of court.
 - (2) Where notice of an appeal is served under this Records to section, the judge shall forthwith file in the Supreme in court Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal (4) The Supreme Court may, on the appeal, affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations and may order the Board to do any act or thing it is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Board or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Appeal from decision of chief officer

25a.—(1) Any person who deems himself aggrieved by a decision of the chief officer under this Act or the regulations may, within ten days after the decision comes to his attention, appeal to a judge of the county or district court for the county or district in which the plant, boiler or other subject-matter to which the decision relates is located, by notice in writing sent by prepaid mail to the chief officer and the judge.

Powers of judge on appeal

(2) Where a person has appealed to a judge under subsection 1, the judge shall appoint a time for a hearing and shall hear the appeal and may affirm, rescind or vary the decision of the chief officer and may direct the chief officer to take any action that he is authorized to take under this Act or the regulations and as the judge considers proper and for such purpose the judge may substitute his opinion for that of the chief officer.

Application of section 24a

(3) Subsection 6 of section 24a applies mutatis mutandis to an appeal under this section.

Parties

(4) The chief officer, the appellant and such other persons as the judge may specify are parties to an appeal under this section.

Decision of judge final

(5) A decision of a judge under this section is final.

Effect of decision pending disposal of appeal

25b. The bringing of an appeal under section 25 or 25a does not affect the operation of the decision appealed from pending disposition of the appeal.

1965, c. 92, s. 33, cl. *o*, repealed

(5) Clause o of section 33 of The Operating Engineers Act, 1965 is repealed.

- **65.** The Pawnbrokers Act, 1966 is amended by adding ^{1966, c. 111}, thereto the following section:
 - 2a.—(1) No application for a licence or renewal of a Application licence to carry on the business of a pawnbroker shall be refused until after the applicant has been afforded a hearing by the licence issuing authority.
 - (2) Where, within the time prescribed therefor or, if no Continuation of licence time is prescribed, prior to the expiry of his licence, pending the holder of a licence to carry on the business of a pawnbroker has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) until the application has been finally determined by the licence issuing authority or, where there is an appeal from the decision of the licence issuing authority, until the last day for launching an appeal or such later date as may be fixed by the body to whom the appeal may be taken.
- **66.**—(1) Clause h of section 1 of *The Pesticides Act*, 1967 ¹⁹⁶⁷ ¹⁹⁶⁷ ¹⁹⁶⁷ ¹⁹⁶⁷ ¹⁹⁶⁸ ¹⁹⁶⁸ ¹⁹⁶⁸ ¹⁹⁶⁸ ¹⁹⁶⁹ ¹⁹⁶⁹
- (2) Section 6 of *The Pesticides Act*, 1967, as re-enacted by $^{1967}_{s.6}$, c. 74, section 2 of *The Pesticides Amendment Act*, 1970, is repealed ($^{1970}_{s.2}$), and the following substituted therefor:
 - 6.—(1) Subject to subsection 2, where a person applies Licence, for a licence in accordance with this Act and the regulations and otherwise complies with the requirements of this Act and the regulations for the particular class of licence applied for, the Director shall issue a licence to him.
 - (2) Subject to section 7a, where an applicant for a licence Refusal does not comply with the requirements of subsection 1, the Director shall refuse to issue a licence to him.
 - 6a.—(1) A licence expires on the 15th day of February Term of in the year next following the year in which it was issued.
 - (2) Subject to section 6b, where a licensee applies for a Renewal renewal of his licence in accordance with this Act

and the regulations, the Director shall renew the licence.

Refusal to renew, suspension or cancellation

- 6b. Subject to section 7a, the Director may refuse to renew or may revoke or suspend a licence if the licensee,
 - (a) has contravened this Act or the regulations;
 - (b) is in breach of a condition of the licence;
 - (c) is found to be imcompetent or grossly negligent; or
 - (d) is found to have fraudulently misrepresented his services in performing an extermination or in carrying on the business of extermination.

1967, c. 74, ss. 7*a*-7*c* (1970, c. 104, s. 2), re-enacted; ss. 7*d*-7*g* (1970, c. 104, s. 2), repealed

(3) Sections 7a, 7b, 7c, 7d, 7e, 7f and 7g of The Pesticides Act, 1967, as enacted by section 2 of The Pesticides Amendment Act, 1970, are repealed and the following substituted therefor:

Proposal to suspend, etc.

7a.—(1) Where the Director proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

Notice

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Board and he may so require such a hearing.

Powers of Director where no hearing (3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of Board where hearing (4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

- (5) The Director may serve notice under subsection 1 Service of notice personally or by registered mail addressed to the applicant or licensee at his address last known to the Director and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the Board to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
- (6) The Board may extend the time for the giving of notice Extension of requiring a hearing by an applicant or licensee requiring hearing under subsection 2, either before or after expiration of such time, where it is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

(7) Where, within the time prescribed therefor or, if no continuation of licence time is prescribed, before expiry of his licence, a pending renewal licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue.

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.
- 7b.—(1) The Director, the applicant or licensee who has Parties required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under section 7a.
- (2) Notice of a hearing under section 7a shall afford to hearing the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(3) An applicant or licensee who is a party to proceedings under section 7a shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members holding hearing not to have taken part in investigation, etc. (4) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

1971, c. . . .

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Only members at hearing to participate in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of documentary evidence (8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to court 7c.—(1) Any party to proceedings before the Board may appeal from its decision or order to the Supreme Court in accordance with the rules of court

Record to be filed in court (2) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before

it in which the decision was made, which, together with the transcript of the evidence if it is not part of the Board's record, shall constitute the record in the appeal.

- (3) The Minister is entitled to be heard by counsel or Minister entitled to otherwise upon the argument of an appeal under be heard this section.
- (4) An appeal under this section may be made on Powers of questions of law or fact or both and the court may appeal affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Director to take any action which the Board may direct him to take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the Director or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- (4) Section 7h of The Pesticides Act, 1967, as enacted by 1967, c. 74, section 2 of The Pesticides Amendment Act, 1970, is amended (1970, c. 104, by adding thereto the following subsection: amended
 - (2) Subsection 1 does not, by reason of subsections 2 and Crown not 4 of section 5 of The Proceedings Against the Crown liability Act, 1962-63, relieve the Crown of liability in respect 1962-63, c. 109 of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

- (5) Section 8 of The Pesticides Act, 1967 is amended by \$1967, c. 74, inserting after "designate" in the first line "in writing". amended
- (6) Section 9 of The Pesticides Act, 1967 is amended by 1967, c. 74, inserting after "regulations" in the first and second lines amended "upon the production of his designation as an inspector".
- (7) Section 10 of The Pesticides Act, 1967 is repealed and the ^{1967, c. 74}, following substituted therefor:
 - 10. Where an inspector has reasonable grounds for or termination believing that an extermination is or may be of extermination dangerous to health, he may order that the extermination be terminated.
- (8) Subsection 3 of section 12 of The Pesticides Act, 1967 is \$12, subs. 3, repealed and the following substituted therefor:

Disposal of appeal

(3) The designated officer who hears the appeal under this section may after a hearing, to which the inspector making the order and the appellant shall be parties, vary, rescind or confirm the order of the inspector.

Effect of order pending disposal of appeal (4) Notwithstanding that an appeal has been taken under this section from an order of an inspector, the order of the inspector is effective until confirmed, varied or rescinded on the appeal.

1967, c. 74, s. 13, amended

- (9) Section 13 of *The Pesticides Act, 1967* is amended by adding thereto the following clauses:
 - (pa) providing for the remuneration and expenses of members of the Pesticides Licence Review Board;
 - (pb) prescribing procedure for the issue or renewal of licences.

1967, c. 74, s. 13, cl. y, repealed

(10) Clause y of the said section 13 is repealed.

R.S.O. 1960, c. 297, s. 1, amended

- **67.**—(1) Section 1 of *The Plant Diseases Act*, as amended by section 1 of *The Plant Diseases Amendment Act*, 1966, is further amended by relettering clause a as clause aa and by adding thereto the following clauses:
 - (a) "Board" means the Plant Diseases Licence Review Board established by this Act;
 - (ca) "licence" means a licence under this Act.

R.S.O. 1960, c. 297, s. 3, re-enacted (2) Section 3 of *The Plant Diseases Act* is repealed and the following substituted therefor:

Nursery licence required 3.—(1) No person shall operate a nursery without a licence therefor from the Director.

Dealer licence required (2) No person, other than a person licensed to operate a nursery, shall be a dealer in nursery stock without a licence therefor from the Director.

R.S.O. 1960, c. 297, amended

(3) The Plant Diseases Act is amended by adding thereto the following sections:

Licence, issue 4a.—(1) The Director shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed

fee unless, after a hearing, he is of opinion that the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

- (2) Subject to section 4b, the Director shall renew a Renewal licence on application by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
- 4b.—(1) The Director may refuse to renew or may sus-Refusal to pend or revoke a licence if, after a hearing, he is of suspension or opinion that the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction in connection with his business of operating a nursery or dealing in nursery stock, to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating a nursery or dealing in nursery stock and such contravention warrants such refusal to renew or suspension or revocation of the licence.
- (2) Where, within the time prescribed therefor or, if no Continuation time is prescribed, before expiry of his licence, a pending renewal licensee has applied for a renewal of his licence and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.
- 4c.—(1) Notice of a hearing by the Director under section Notice of 4a or section 4b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (2) An applicant or licensee who is a party to pro-Examination ceedings under section 4a or 4b shall be afforded an mentary opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 4d. Where the Director has refused to issue or renew or Variation has suspended or revoked a licence pursuant to a by Director hearing, he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but

the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Review Board established 4e.—(1) A board to be known as the "Plant Diseases Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

Term of

(2) A member of the Board shall hold office for not more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Remunera-

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to Board 4f.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.

Extension of time for appeal

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1 either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board (3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of the pending disposal Director, unless the Director otherwise directs, the of appeal decision of the Director is effective until the appeal is disposed of.
- 4g.—(1) The Director, the appellant and such other Parties persons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members after a hearing shall not have taken part prior to decision not the hearing in any investigation or consideration of taken part in the subject-matter of the hearing and shall not etc. communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.
- (3) The oral evidence taken before the Board at a hearing Recording shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections
 15 and 16 of *The Statutory Powers Procedure Act*, <sup>1971, c. . . .
 1971.</sup>
- (5) No member of the Board shall participate in a only decision of the Board pursuant to a hearing unless he at hearing was present throughout the hearing and heard the indecision evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 4h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
- (2) The Minister is entitled to be heard by counsel or Minister otherwise upon the argument of an appeal under this be heard section.

Record to be filed in court

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal (4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Director or the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 297, s. 6, subs. 1, amended (4) Subsection 1 of section 6 of *The Plant Diseases Act* is amended by adding at the commencement thereof "Subject to subsection 1a".

R.S.O. 1960, c. 297, s. 6, amended

(5) The said section 6, as amended by section 3 of *The Plant Diseases Amendment Act*, 1966, is further amended by adding thereto the following subsection:

Power to enter dwelling R.S.O. 1960, c. 387 (1a) Except under the authority of a warrant under section 14 of *The Summary Convictions Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant.

R.S.O. 1960, c. 297, s. 8, subs. 2, re-enacted

(6) Subsection 2 of section 8 of *The Plant Diseases Act* is repealed and the following substituted therefor:

Powers of Provincial Entomologist on appeal

(2) Upon receipt of a notice of appeal, the Provincial Entomologist shall, after a hearing, confirm, revoke or modify the order appealed against and may make such order as the inspector might have made and the appellant shall carry out such order as is given by the Provincial Entomologist.

Parties

(3) The appellant, the inspector who made the decision and such other persons as the Provincial Entomologist may specify are parties to proceedings before the Provincial Entomologist under subsection 2.

- (4) An appeal under this section may be made in writing How appeal or orally or by telephone to the Provincial Entomologist, but the Provincial Entomologist may require the grounds for appeal to be specified in writing before the hearing.
- 68.—(1) Section 1 of The Pregnant Mare Urine Farms 1968-69, c. 97, s. 1 Act, 1968-69 is amended by adding thereto the following amended clause:
 - (da) "licence" means a licence under this Act.
- (2) Subsections 3, 4, 5, 6 and 7 of section 4 of $The_{c.97, s.4}^{1968-69}$, Pregnant Mare Urine Farms Act, 1968-69 are repealed and the subss. 3-7. re-enacted following substituted therefor:
 - (3) Where the Director is of the opinion that an Refusal to applicant for a licence as an operator of a P.M.U. farm does not comply with clauses a and b of subsection 2 of section 3, he may, after a hearing, refuse to issue the licence.
 - (4) Subject to subsection 5, the Director shall renew Renewal a licence, on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - (5) Where the Director is of the opinion, in the case Refusal to of a licensee, that clause a or b of subsection 3 of suspension or section 3 applies, he may, after a hearing, refuse revocation to renew or may suspend or revoke the licence.
 - (6) Notwithstanding subsection 5, the Director, by notice Provisional to a licensee and without a hearing, may pro-etc. visionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of, or the prevention of cruelty or maltreatment to, or neglect of any animal and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.
 - (7) Subject to subsection 6, where, within the time Continuation of licence prescribed therefor or, if no time is prescribed, pending renewal before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee

and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

1968-69, c. 97, ss. 5-9, re-enacted; ss. 10, 11, 13, repealed (3) Sections 5, 6, 7, 8, 9, 10, 11 and 13 of *The Pregnant Mare Urine Farms Act*, 1968-69 are repealed and the following substituted therefor:

Notice of hearing 5.—(1) The notice of a hearing by the Director under section 4 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by Director 6. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

Appeal to Board 7.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director, appeal to the Board.

Extension of time for appeal (2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1 either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

- (3) Where an applicant or licensee appeals to the Powers of Board under this section, the Board shall hear appeal the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.
- (4) Notwithstanding that an applicant or licensee has Effect of appealed under this section from a decision of the Director Director, unless the Director otherwise directs, the disposal of decision of the Director is effective until the appeal appeal is disposed of.
- 8.—(1) The Director, the appellant and such other Parties persons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members after a hearing shall not have taken part prior to decision not the hearing in any investigation or consideration of taken part in the subject-matter of the hearing and shall not etc. communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.
- (3) The oral evidence taken before the Board at a Recording hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Pro-* 1971, c. ... cedure Act, 1971.
- (5) No member of the Board shall participate in a Only members decision of the Board pursuant to a hearing unless at hearing he was present throughout the hearing and heard in decision the evidence and argument of the parties and,

except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Appeal to court 9.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard (2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to be filed in court (3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal (4) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Board or direct the Director to do any act the Director is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Board.

Effect of decision of Board pending disposal of appeal (5) Notwithstanding that an applicant or licensee has appealed under this section, from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 312, s. 1, re-enacted

69.—(1) Section 1 of *The Provincial Auctioneers Act* is repealed and the following substituted therefor:

Interpretation

- 1. In this Act,
 - (a) "Board" means the Provincial Auctioneers Licence Review Board established by this Act;
 - (b) "Commissioner" means the Live Stock Commissioner;
 - (c) "licence" means a licence under this Act.

Licence, issue

1a.—(1) The Commissioner shall issue a licence to sell pure-bred live stock only, by public auction in Ontario, to a person who makes application therefor and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant is not competent or does not have sufficient experience with and knowledge of pure-bred live stock to conduct public auctions of such live stock; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he may not engage in such business in accordance with law and with honesty and integrity.
- (2) Any person who resides in Ontario shall pay a fee of Fee \$50, and any person who does not reside in Ontario shall pay a fee of \$100, for a licence.
- 1b.—(1) The Commissioner may revoke a licence if, Revocation after a hearing, he is of opinion that the licensee or any person under his control or direction or associated with him in connection with his operations as a licensee has not carried on his business as an auctioneer in accordance with law and with honesty and integrity.
- (2) The Commissioner, by notice to a licensee and with-Suspension out a hearing, may suspend the licensee's licence where in the Commissioner's opinion it is necessary to do so for the immediate protection of the interests of persons dealing with the licensee and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether the licence should be revoked under this Act.
- 1c.—(1) Notice of a hearing by the Commissioner Notice of under section 1a or section 1b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.
- (2) An applicant or licensee who is a party to proceedings Examination in which the Commissioner holds a hearing shall mentary be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.
- 1d. Where the Commissioner has refused to issue or has Variation revoked a licence pursuant to a hearing he may at by Comany time of his own motion or on the application of

the person who was the applicant or licensee, vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act.

Review Board established 1e.—(1) A board to be known as the "Provincial Auctioneers Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.

Term of office

(2) A member of the Board shall hold office for not more than five consecutive years.

Chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(4) A majority of the members of the Board constitutes a quorum.

Remunera-

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Appeal to Board 1f.—(1) Where the Commissioner refuses to issue or revokes a licence, the applicant or licensee may, by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner, appeal to the Board.

Extension of time for appeal (2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of Board

(3) Where an applicant or licensee appeals to the Board under this section the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued or revoked and may, after the hearing, confirm or alter the decision

of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

- (4) Notwithstanding that an applicant or licensee has Effect of decision appealed under this section from a decision of pending disposal of the Commissioner, unless the Commissioner otherwise appeal directs, the decision of the Commissioner is effective until the appeal is disposed of.
- 1g.—(1) The Commissioner, the appellant and such Parties other persons as the Board may specify are parties to the proceedings before the Board under this Act.
- (2) Members of the Board assigned to render a decision Members making after a hearing shall not have taken part prior to the decision not to have hearing in any investigation or consideration of the taken part in subject-matter of the hearing and shall not communi- etc. cate directly or indirectly in relation to the subjectmatter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (3) The oral evidence taken before the Board at a Recording of evidence hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (4) The findings of fact of the Board pursuant to a Findings of fact hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure 1971, c. ... Act. 1971.
- (5) No member of the Board shall participate in only members a decision of the Board pursuant to a hearing who at hearing to participate was not present throughout the hearing and heard in decision the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.
- 1h.—(1) Any party to the hearing before the Board to court may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard (2) The Minister is entitled to appear, by counsel or otherwise, upon the argument of an appeal under this section.

Records to be filed in court (3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, constitutes the record on the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.

Effect of decision of Board pending disposal of appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

R.S.O. 1960, c. 312, s. 4, repealed

(2) Section 4 of The Provincial Auctioneers Act is repealed.

1961-62, c. 111, s. 18, subs. 4, re-enacted **70.**—(1) Subsection 4 of section 18 of *The Provincial Land Tax Act, 1961-62* is repealed and the following substituted therefor:

Assessment by judge final (4) Subject to subsections 5 and 6, the assessment as determined by the judge is final and binding and is not open to question or dispute in any action or proceeding or otherwise.

Stated case

(5) The judge, upon request of the complainant or the collector within thirty days after the determination of the assessment by him, shall state a case in writing to the Supreme Court upon any question of law arising in the assessment.

Powers of court (6) Where a case is stated to the Supreme Court under this section, the court shall hear the case and may vary or annul the assessment or may refer it back to the judge for re-assessment in accordance with the judgment of the court.

1961-62, c. 111, s. 38, cl. g, repealed (2) Clause g of section 38 of The Provincial Land Tax Act, repealed (1961-62 is repealed.

- 71.—(1) Section 1 of The Public Commercial Vehicles Act, R.S.O. 1960, as amended by section 1 of The Public Commercial Vehicles amended Amendment Act, 1961-62 and section 1 of The Public Commercial Vehicles Amendment Act, 1968, is further amended by adding thereto the following clauses:
 - (fa) "officer of the Department" means an officer of the Department designated, in writing, by the Minister to assist in the enforcement of this Act;
 - (ha) "prescribed" means prescribed by the regulations.
- (2) Subsection 3 of section 2 of *The Public Commercial* R.S.O. 1960, c. 319, s. 2, whicles Act is repealed. Vehicles Act is repealed. repealed
- (3) Section 4 of The Public Commercial Vehicles Act, as R.S.O. 1960, c. 319, s. 4. amended by section 4 of The Public Commercial Vehicles re-enacted Amendment Act, 1961-62 and section 4 of The Public Commercial Vehicles Amendment Act, 1968, is repealed and the following substituted therefor:
 - 4.—(1) The Minister may issue an operating licence, Operating

- (a) for the transportation, other than by a tank truck vehicle, of.
 - (i) sand, gravel, earth, crushed or uncut rock and stone, slag and rubble, or
 - (ii) salt, calcium chloride, a mixture of sand and salt, and asphalt mixes directly to highway construction or maintenance sites or to stock piles for further use on highway construction or maintenance sites: or
- (b) in any other case in accordance with a certificate of necessity and convenience issued by the Board under section 5.
- (2) An operating licence authorizes the licensee to Rights conduct upon a highway by means of a public licence commercial vehicle the business of transportation of goods in accordance with this Act and the regulations and the terms and conditions of the licence.
- (3) The holder of an operating licence shall not dis-Discontinuance of continue any transportation service authorized under transportation his licence until after he has given the Minister ten days written notice of his intention to do so.

R.S.O. 1960, c. 319, s. 5 (1961-62, c. 114, s. 6), re-enacted (4) Section 4a of The Public Commercial Vehicles Act, as enacted by section 5 of The Public Commercial Vehicles Amendment Act, 1961-62, is repealed.

R.S.O. 1960, c. 319, s. 5 (1961-62, c. 114, s. 6), re-enacted (5) Section 5 of *The Public Commercial Vehicles Act*, as re-enacted by section 6 of *The Public Commercial Vehicles Amendment Act*, 1961-62, is repealed and the following substituted therefor:

Approval of Board

R.S.O. 1960,

c. 273

5.—(1) Except under clause a of subsection 1 of section 4, the Minister shall not issue an operating licence to any person unless the Board, upon the application of that person in the prescribed form has, after a hearing of the application as required by The Ontario Highway Transport Board Act, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.

Certificate

- (2) The Board may, in a certificate issued by it under this section, having regard to the requirements of public necessity and convenience,
 - (a) prescribe terms and conditions to govern the transportation of goods by public commercial vehicles pursuant to the licence; or
 - (b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the certificate.

R.S.O. 1960, c. 319, ss. 6-10, re-enacted

(6) Sections 6, 7, 8, 9 and 10 of *The Public Commercial Vehicles Act* are repealed and the following substituted therefor:

Transfer of licence

6.—(1) No operating licence shall be transferred without the approval of the Minister, in writing, obtained on application in the prescribed form and payment of the prescribed fee.

Reference to Board (2) The Minister shall refer an application for approval of the transfer of an operating licence to the Board, and the Board shall hold a hearing and shall report to the Minister whether or not the public necessity and convenience served by the transportation service carried on under the licence will be prejudiced by the transfer of the licence.

- (3) The Minister, the proposed transferor and transferee Parties and such other persons as the Board may specify are parties to the proceedings under this section.
- (4) The Minister shall consider a report made by the Decision of Minister Board to him under this section and may thereafter approve or refuse to approve the transfer and the Minister shall give reasons for his decision to the other parties to the proceedings.

(5) The Minister may require the directors of a corpora- Issue or transfer of tion that is the holder of an operating licence to report shares of to the Board any issue or transfer of shares of its capital stock and where the Board finds, after a hearing, that the number of shares so issued or transferred affects the de facto control of the operations of the corporation such issue or transfer shall be deemed to constitute a transfer of all operating licences held by such corporation and unless the transfer is approved, such operating licences shall terminate.

Suspension

7. The Minister may at any time refer an operating Review of terms of licence to the Board with a recommendation that the licence terms and conditions of the licence be reviewed having regard to the requirements of public necessity and convenience and the Board shall, after a hearing of the reference as required by The Ontario Highway R.S.O. 1960, Transport Board Act, report thereon to the Minister, and the Minister may confirm, amend or cancel the terms and conditions of the licence and shall give reasons for his decision to the licensee.

8.—(1) An operating licence expires on the 1st day of Expiry of July in each year or on the expiry of the vehicle licences for the vehicles operated pursuant to the operating licence unless before such date or such expiry, as the case may be, the holder of the operating licence has applied for and acquired vehicle licences for such vehicles for the period immediately following such date or such expiry, as the case may be.

(2) Where the holder of an operating licence has acquired Operating vehicle licences in accordance with subsection 1, his renewed on acquirement operating licence is deemed to be renewed for the of vehicle licences period for which the vehicle licences are issued.

9. Subject to section 10j, the Minister may suspend lation of operating licence or cancel an operating licence,

- (a) where the licensee fails to begin to provide transportation services in accordance with the licence within thirty days after the issue of the licence, or within such further period as is specified in the licence;
- (b) where the licensee fails for a continuous period of thirty days to provide transportation services in accordance with the licence;
- (c) where the licensee is financially incapable of providing or continuing to provide transportation services in accordance with this Act and the regulations or the terms and conditions of the licence or of meeting his financial responsibilities to persons using such services; or
- (d) where the licensee or any person under his control and direction contravenes this Act or The Highway Traffic Act or the regulations hereunder or thereunder or the terms and conditions of the licence and such contravention affords reasonable grounds for believing that the transportation services required by the licence will not be carried on in accordance with the requirements of such Acts or regulations or such terms and conditions.

R.S.O. 1960, c. 172

Vehicle licence required 10. Notwithstanding the provisions of any private Act, no person shall operate a public commercial vehicle unless the vehicle is licensed as a public commercial vehicle under this Act

R.S.O. 1960, c. 319, s. 10*a*, (1968, c. 105, s. 5), re-enacted

(7) Section 10a of The Public Commercial Vehicles Act, as enacted by section 5 of The Public Commercial Vehicles Amendment Act, 1968, is repealed and the following substituted therefor:

Issue to holder of operating licence 10a.—(1) Subject to subsection 2 and section 10d, the holder of an operating licence is entitled, upon application to the Minister in the prescribed form and payment of the prescribed fee, to be issued by the Minister vehicle licences for public commercial vehicles for operation pursuant to his operating licence.

Idem

(2) No vehicle licence shall be issued for a public commercial vehicle except,

(a) to the holder of an operating licence who is registered as the owner of the vehicle under *The Highway Traffic Act*; or

R.S.O. 1960, c. 172

- (b) to the holder of an operating licence who has entered into an agreement for the lease of the public commercial vehicle in accordance with this Act and the regulations.
- 10b.—(1) A vehicle licence authorizes the holder to Rights operate the vehicle for which it is issued as a public vehicle commercial vehicle in providing the transportation designated in his operating licence.
 - (2) A vehicle licence expires at the end of the last day Expiry of of the period for which the licence was issued.
 - (3) Where a vehicle for which a vehicle licence has been Transfer issued is sold to the holder of an operating licence authorizing the operation of that class of vehicle, such holder is entitled to a transfer by the Minister of the vehicle licence and licence plate for the vehicle, but no vehicle licence may be transferred from the person to whom it was issued to another person in any other case.
 - (4) Where the holder of a vehicle licence applies to Replacement replace the vehicle for which the licence was issued vehicle with another vehicle for which no vehicle licence is in effect, the Minister may permit the vehicle licence and licence plate to be transferred to the substituted vehicle upon payment of the prescribed transfer fee and the amount, if any, by which the fee prescribed for a vehicle licence for the substituted vehicle would exceed the fee prescribed for a vehicle licence for the replaced vehicle.
- 10c.—(1) The Minister may in a vehicle licence fix the Tonnage tonnage that may be carried in the vehicle pursuant to the licence and no vehicle shall at any time carry more tonnage than is fixed by the licence.
 - (2) Every public commercial vehicle operating on a Licence highway shall have attached thereto, and exposed in a conspicuous position, a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year.

Refusal to issue or cancellation of vehicle licence

R.S.O. 1960,

10d. Subject to section 10j, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, eligible to be issued a licence under subsection 2 of section 10a or if the vehicle does not comply with the requirements of this Act or The Highway Traffic Act or the regulations hereunder or thereunder.

Freight forwarder's licence required 10e.—(1) No person shall carry on business as a freight forwarder unless he is the holder of a freight forwarder's licence under this Act.

Restrictions on transportation of goods beyond urban zone (2) No holder of a freight forwarder's licence shall transport goods upon a highway beyond an urban zone except in a vehicle operated by the holder of an operating licence issued pursuant to this Act, the terms of which operating licence authorize the holder to perform the transportation.

Issue to holder of operating licence prohibited

(3) No freight forwarder's licence shall be issued to the holder of an operating licence.

Issue of freight forwarder's licence 10f.—(1) The Minister may,

- (a) upon application in the prescribed form and payment of the prescribed fee; and
- (b) upon the filing by the applicant with the Minister of a policy of insurance or bond in a form and amount that affords adequate security for the protection of the public in the event of damage or loss to goods undertaken to be transported by the applicant,

issue a freight forwarder's licence to the applicant.

Terms and conditions

(2) The Minister may, in a licence issued to a freight forwarder under this section, prescribe terms and conditions in the licence to govern the carrying on of the business of freight forwarder under the licence.

Applicant may require hearing by Board

10g. Where the applicant for a freight forwarder's licence is dissatisfied with the terms and conditions prescribed by the Minister in the licence, the applicant may, by written notice to the Minister and the Board, within fifteen days after receiving the licence, require

a hearing by the Board and section 10j applies to the proceedings as if such notice were a notice requiring a hearing under that section.

- 10h. A freight forwarder's licence expires on the 31st Expiry of day of December in the year in which it was issued.
- 10i. Subject to section 10j, the Minister may suspend Suspension or cancel a freight forwarder's licence, Suspension and cancellation of licence
 - (a) where the licensee fails to maintain in force a policy of insurance or bond that meets the requirements of clause b of subsection 1 of section 10f; or
 - (b) where the licensee or any person under his control and direction contravenes this Act or the regulations or the terms and conditions of the licence and such contravention or failure affords reasonable grounds for believing that the business of a freight forwarder will not be carried on in accordance with the requirements of this Act and the regulations and the terms and conditions of the licence.
- 10*j*.—(1) Where the Minister proposes,

Notice of proposal to cancel, etc., hearing

- (a) to suspend or cancel an operating licence under section 9:
- (b) to refuse to issue or to cancel a vehicle licence under section 10d; or
- (c) to refuse to issue a freight forwarder's licence under section 10f or to suspend or cancel a freight forwarder's licence under section 10i,

he shall cause notice of his proposal together with written reasons therefor to be served on the applicant or licensee informing him that he has a right to a hearing by the Board if he mails or delivers, within fifteen days after service on him of the notice from the Minister, notice in writing requiring a hearing to the Minister and the Board and the applicant or licensee may so require such a hearing.

(2) Where an applicant or licensee,

Where hearing required or not

(a) does not give notice in accordance with subsection 1 requiring a hearing by the Board, the Minister may forthwith refuse to issue or may suspend or cancel the licence; or

(b) gives notice in accordance with subsection 1 requiring a hearing by the Board, the Minister shall refer the matter to the Board for a hearing.

Service of notice

(3) The Minister may cause a notice under subsection 1 to be served personally or by registered mail addressed to the applicant or licensee at his address last known to the Minister and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for giving notice by applicant (4) The Board, on application of an applicant or licensee, may extend the time for giving notice requiring a hearing under subsection 1 either before or after expiration of the time fixed therein where the Board is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as the Board considers proper consequent upon the extension.

Parties to hearing (5) The Minister, the applicant or licensee and such other persons as the Board may specify are parties to a hearing under this section.

Notice of hearing (6) Notice of a hearing under this section shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of his licence.

Examination of documentary evidence (7) The Minister shall afford to the applicant or licensee, or his representative, an opportunity to examine before the hearing any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.

Report to Minister (8) The Board shall, after a hearing under this section, make a report to the Minister, which shall set out its findings of fact and conclusions of law and its recommendations as to the issue, suspension or cancellation of the licence to which it relates.

- (9) After considering a report of the Board under this Decision of section, the Minister may carry out the proposal or refrain from carrying out the proposal to which it relates and shall give reasons for his decision to the applicant or licensee.
- 10k.—(1) Except as provided by the regulations, each Tariff of holder of an operating licence or of a freight forbefiled warder's licence shall, on payment of the prescribed fee, file with the Board a tariff of tolls showing all the rates or charges for the transportation of goods to and from points in respect of which the transportation is provided or offered by the licensee or by arrangement with any other licensee or any other carrier.
 - (2) No holder of an operating licence or freight for-Charging warder's licence shall charge a toll that is not contained in, and in accordance with, the tariff filed by him under subsection 1.
- 10l. A tariff of tolls shall be filed in a form prescribed publication by the Board and published and maintained available of tariff to the public.
- 10m.—(1) A licensee who has filed a tariff of tolls with the Amendment Board may file with the Board an amendment to the tariff but, subject to subsection 2, such amendment shall not become effective until the expiry of thirty days from the date the amendment was filed.
 - (2) The Board, upon the application of a licensee who date has filed an amendment to his tariff of tolls under this section, may fix the effective date of the amendment on a specified date prior to the expiry of thirty days from the date the amendment was filed.
- 10n. A tariff of tolls filed under section 10k and amend- $\frac{\text{Expiry of tariff}}{\text{tariff}}$ ments thereto expires two years from the date upon which the tariff was filed under section 10k.
- 10o.—(1) Except as provided in the regulations, every Bill of holder of an operating licence or of a freight for-issue of warder's licence shall issue a bill of lading to the person delivering or releasing goods to the licensee for transportation for compensation.
 - (2) A bill of lading shall contain such information as Contents may be prescribed and shall include an acknowledgment of receipt by the carrier or the freight forwarder

of the goods therein described and an undertaking to carry such goods for delivery to the consignee or the person entitled to receive the goods and shall be signed by, or on behalf of, the issuing carrier or issuing freight forwarder and by the consignor.

Statutory

(3) The conditions set out in Schedule A shall be deemed to be a part of every contract for the transportation of goods for compensation other than a contract for transportation for compensation between a freight forwarder and a shipper.

Idem

(4) The conditions set out in Schedule B shall be deemed to be a part of every contract for transportation for compensation between a freight forwarder and a shipper.

Copy of bill of lading to be carried by driver (5) Every driver operating a public commercial vehicle shall carry on each trip a copy or memorandum of the bill of lading and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Department.

Idem

(6) Where a carrier is transporting goods on behalf of a freight forwarder, the driver transporting the goods by public commercial vehicle shall carry on each trip a copy or memorandum of the bill of lading issued by the freight forwarder and shall produce it when required for inspection by a member of the Ontario Provincial Police Force or an officer of the Department.

R.S.O. 1960, c. 319, amended adding thereto the following sections:

Vehicle licence, etc., to be carried by driver 13a. The vehicle licence issued for a public commercial vehicle together with a copy of the conditions set out in the operating licence under which it is operated, shall, whenever the vehicle is on a highway be carried by the driver or be kept in a readily accessible place in the vehicle and shall be produced upon the demand of a member of the Ontario Provincial Police Force or of an officer of the Department.

Examination of vehicle, etc.

13b.—(1) A member of the Ontario Provincial Police Force or an officer of the Department may at any time examine any public commercial vehicle, its contents and equipment for the purpose of ascertaining whether this Act and the regulations and the operating licence under which the vehicle is operated

are being complied with in the operation of the vehicle, and for that purpose the member or officer may require the driver or other person in charge of a public commercial vehicle to stop on a highway.

(2) Every driver or other person in charge of a public Stopping of vehicle commercial vehicle on a highway who is required by for a member of the Ontario Provincial Police Force or an officer of the Department, by signals or otherwise, to stop the vehicle for the purpose of examination, shall stop the vehicle and assist in the examination of the vehicle, its contents and equipment.

examination

13c. An officer of the Department may at any reason-Examination of records, able time examine all books, records and documents etc., of holder of of the holder of an operating licence relating to the operating business of operating public commercial vehicles for licence the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder.

13d. Each person employed in the administration of this Matters confidential Act, including any person making an examination under section 13c, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment or on an examination under section 13c and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (9) Clause a of section 16 of *The Public Commercial Vehicles* R.S.O. 1960, c. 319, s. 16, ct is repealed and the following substituted therefor: cl. a, Act is repealed and the following substituted therefor: re-enacted
 - (a) prescribing classes of licences and the forms of applications and licences.

(10) Clause h of the said section 16 is repealed.

R.S.O. 1960, c. 319, s. 16, cl. h, repealed

R.S.O. 1960, c. 319, s. 16, cl. *l*, re-enacted

- (11) Clause l of the said section 16 is repealed and the following substituted therefor:
 - (l) prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed by persons licensed under this Act.

R.S.O. 1960, c. 319, s. 16, cl. *q*, repealed

(12) Clause q of the said section 16 is repealed.

R.S.O. 1960, c. 319, amended (13) The Public Commercial Vehicles Act is amended by adding thereto the following Schedules:

SCHEDULE A

- 1. The carrier of the goods herein described is liable for any loss thereof or damage or injury thereto, except as herein provided.
- 2. Where shipments are handled by more than one carrier, the carrier issuing the bill of lading, in addition to any other liability hereunder, is liable for any loss, damage or injury to the goods caused by or resulting from the act, neglect or default of any other carrier to whom the goods are delivered and from whom the other carrier is not by the terms of the bill of lading relieved and the onus of proving that such loss, damage or injury was not so caused and did not so result is upon the carrier issuing the bill of lading.
- 3. The carrier issuing the bill of lading is entitled to recover from any other carrier to whom the goods are delivered in the course of their conveyance to their final destination the amount of the loss, damage or injury that the carrier issuing the bill of lading may be required to pay hereunder caused by or resulting from the handling of the goods by the other carrier, if the carrier issuing the bill of lading is not relieved therefrom by the terms of the bill of lading, and if the loss, damage or injury was not caused by the act, neglect or default of the carrier issuing the bill of lading, subject to the onus set out in paragraph 2.
- 4. Nothing in paragraph 2 or 3 deprives the holder of the bill of lading or the party entitled to the goods of any remedy or right of action that he may have against the carrier issuing the bill of lading or against any other carrier.
- 5. The carrier is not liable for loss, damage or delay to any of the goods described in the bill of lading caused by an act of God, the Queen's or public enemies, riots, strikes, defect or inherent vice in the goods, the act or default of the shipper or owner, the authority of law, quarantine or differences in weights of grain, seed, live stock or other commodities caused by natural shrinkage.
- Where goods are stopped and held in transit at the request of the party entitled to request it, the goods are held at the risk of the owner
- 7. No carrier is bound to transport the goods by any particular public commercial vehicle or in time for any particular market or otherwise than with due despatch, unless by agreement specifically endorsed on the bill of lading and signed by the parties thereto.

- 8. In the case of physical necessity, the carrier has the right to forward the goods by any conveyance or by any route between the point of shipment and the point of destination but, if the goods are forwarded by a conveyance that is not a public commercial vehicle, the liability of the carrier is the same as though the entire carriage were by public commercial vehicle.
- Subject to paragraph 10, the amount of any loss, damage or injury for which the carrier is liable, whether or not the loss, damage or injury results from negligence, shall be computed on the basis of,
 - (a) the value of the goods at the place and time of shipment including the freight and other charges if paid; or
 - (b) where a value lower than that referred to in clause a has been represented in writing by the consignor or has been agreed upon, such lower value.
- 10. Subject to paragraph 11, the amount of any loss or damage computed under clause a or b of paragraph 9 shall not exceed \$1.50 per pound unless a higher value is declared on the face of the bill of lading by the consignor.
- 11. Paragraph 10 does not apply to,
 - (a) a shipment of uncrated used household, office or store furniture; or
 - (b) where specially designed vehicles of the drop-frame type are used and equipped with pads, belts, hooks, wardrobes, and special packing containers, a shipment of,
 - (i) new uncrated furniture and fixtures that are part of the dwelling in which they are to be used,
 - (ii) new uncrated furniture and fixtures that are part of the furnishing of offices, museums, hospitals, factories and public institutions, or
 - (iii) objects of art, displays and exhibits that because of their unusual nature or value require specialized handling and the employment of pads, belts, hooks, wardrobes and special packing containers,

where such shipment is made under an operating licence authorizing such shipment.

- 12. Where it is a term or condition that the goods are carried at the risk of the consignor or owner, the condition covers only such risks as are necessarily incidental to transportation and does not relieve the carrier from liability for any loss, damage, injury or delay that may result from any negligence or omission of the carrier, its agents or employees, and the burden of proving the absence of negligence or omission is on the carrier.
- 13. The carrier is not liable for loss, damage, injury or delay to any goods carried under the bill of lading unless notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage, injury or delay is given in writing to the carrier at the point of delivery or at the point or origin within ninety days after the delivery of the goods, or, in the case of failure to make delivery, within ninety days after a reasonable time for delivery has elapsed.

- Where, through no fault of the carrier, the carrier is unable to effect delivery of goods to the person entitled to receive them, the goods may,
 - (a) be kept in the warehouse of the carrier, subject to a reasonable charge for storage and to the carrier's responsibility as warehouseman only; or
 - (b) at the option of the carrier, after written notice of the carrier's intention to do so has been served on the consignor and consignee of the goods in person or by registered mail, be removed to, and stored in, a public or licensed warehouse at the expense of the owner of the goods and there held at the risk of the owner, without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges including a reasonable charge for storage.
- 15. No carrier is bound to carry any documents, specie or any articles of extraordinary value unless by a special agreement to do so and, where the nature and stipulated value of the goods is disclosed to him, the duty of obtaining such special agreement is on the carrier.
- 16. The owner or consignee of the goods shall pay the freight and all other lawful charges accruing on the goods and, if required by the carrier, shall pay them before delivery and, if the goods shipped are not those described in the bill of lading, the freight charges shall be paid upon the goods actually shipped with any additional penalties due.
- 17. Every person, whether as principal or agent, shipping explosives or dangerous goods without previous full written disclosure to the carrier of their nature, shall indemnify the carrier against all loss, damage or injury caused thereby, and the goods may be warehoused at the risk and expense of the owner of the goods.
- Any alteration, addition or erasure in a bill of lading shall be signed or initialled by the parties thereto.

SCHEDULE B

- The freight forwarder of the goods herein described is liable for any loss thereof or damage or injury thereto, except as herein provided.
- 2. The freight forwarder is not liable for loss, damage or delay to any of the goods described in the bill of lading caused by an act of God, the Queen's or public enemies, riots, strikes, defect or inherent vice in the goods, the act or default of the shipper or owner, the authority of law, quarantine or differences in weights of grain, seed, live stock or other commodities caused by natural shrinkage.
- No freight forwarder is bound to transport the goods in time for any particular market or otherwise than with due despatch, unless by agreement specifically endorsed on the bill of lading and signed by the parties thereto.
- The amount of any loss, damage or injury for which the freight forwarder is liable, whether or not the loss, damage or injury results from negligence, shall be computed on the basis of,
 - (a) the value of the goods at the place and time of shipment including the freight and other charges if paid; or

- (b) where a value lower than that referred to in clause a has been represented in writing by the consignor or has been agreed upon, such lower value.
- 5. Where it is a term or condition that the goods are carried at the risk of the consignor or owner, the condition covers only such risks as are necessarily incidental to transportation and does not relieve the freight forwarder from liability for any loss, damage or injury or delay that may result from any negligence or omission of the freight forwarder, its agents or employees, and the burden of proving the absence of negligence or omission is on the freight forwarder.
- 6. The freight forwarder is not liable for loss, damage, injury or delay to any goods carried under the bill of lading unless notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage, injury or delay is given in writing to the freight forwarder at the point of delivery or at the point of origin within ninety days after the delivery of the goods, or, in the case of failure to make delivery, within ninety days after a reasonable time for delivery has elapsed.
- 7. No freight forwarder is bound to carry any documents, specie or any articles of extraordinary value unless by a special agreement to do so and, where the nature and stipulated value of the goods is disclosed to him, the duty of obtaining such special agreement is on the freight forwarder.
- 8. Every person, whether as principal or agent, shipping explosives or dangerous goods without previous full written disclosure to the freight forwarder of their nature, shall indemnify the freight forwarder against all loss, damage or injury caused thereby, and the goods may be warehoused at the risk and expense of the owner of the goods.
- Any alteration, addition or erasure in a bill of lading shall be signed or initialed by the parties thereto.
- **72.** Section 2 of *The Public Halls Act* is amended by adding $^{R.S.O.\ 1960}_{c.\ 320,\ s.\ 2,}$ thereto the following subsection:
 - (2) No application for a licence for a public hall for Hearing use as a place of public assembly shall be refused until after the applicant has been afforded a hearing by the licence issuing authority.
- **73.**—(1) Sections 5 and 6 of *The Public Trustee Act* are R.S.O. 1960, c. 334, ss. 5, 6, repealed and the following substituted therefor:
 - 5. The Public Trustee shall discharge the duties im-Duties posed upon him by The Crown Administration of R.S.O. 1960, Estates Act, The Charities Accounting Act and any other Act of the Legislature or by the Lieutenant Governor in Council, and he shall also make inquiries from time to time as to property that has escheated, or become forfeited for any cause to the Crown, or in which the Crown in right of Ontario may be interested.

Powers of inquiry

1971, c. . . .

6. For the purposes of an inquiry under section 5, the Public Trustee has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1960, c. 334, s. 14, cl. h, repealed

(2) Clause h of section 14 of The Public Trustee Act is repealed.

R.S.O. 1960, c. 334, amended

(3) The Public Trustee Act is amended by adding thereto the following sections:

Matters confidential

18. Every person employed in the performance of the duties imposed upon the Public Trustee by this or any other Act or by the Lieutenant Governor in Council shall preserve secrecy with respect to all matters that come to his knowledge in the course of such employment and shall not communicate any such matters to any person other than to a person legally entitled thereto or to his legal counsel except as may be required in connection with the administration of this Act and the regulations under this Act or any proceedings thereunder.

Report

19. The Public Trustee shall, at the end of each fiscal year, prepare a report on his operations and submit it to the Minister of Justice and Attorney General who shall submit the report to the Lieutenant Governor in Council and then lay the report before the Assembly, if it is in session, or, if not, at the next ensuing session.

R.S.O. 1960, c. 337, s. 1, amended

- **74.**—(1) Section 1 of *The Public Vehicles Act* is amended by adding thereto the following clauses:
 - (ea) "officer of the Department" means an officer of the Department designated, in writing, by the Minister to assist in the enforcement of this Act;
 - (fa) "prescribed" means prescribed by the regulations.

R.S.O. 1960, c. 337, s. 2, subs. 2, repealed

- (2) Subsection 2 of section 2 of The Public Vehicles Act is repealed.
- R.S.O. 1960, c. 337, ss. 3-6, re-enacted; s. 7, repealed
- (3) Sections 3 to 7 of *The Public Vehicles Act* are repealed and the following substituted therefor:

- 3.—(1) The Minister may issue an operating licence in Operating accordance with a certificate of necessity and issue convenience issued by the Board under section 4.
- (2) An operating licence authorizes the licensee to conduct Rights upon a highway by means of a public vehicle the business of a carrier of passengers or of passengers and express freight, in accordance with this Act and the regulations and the terms and conditions of the licence.
- (3) The holder of an operating licence shall not dis-Discontinuance of continue any scheduled service authorized under scheduled his licence until after giving the Minister ten days written notice of his intention to do so.
- (4) Where the holder of an operating licence fails to Failure to provide provide a scheduled service authorized by his licence scheduled for more than twenty-four hours, he shall give,
 - (a) a written report to the Minister; and
 - (b) a notice to the public in the area affected,

indicating the cause of the failure and its probable duration.

- (5) A notice to the public under subsection 4 shall be given Notice by publication in a newspaper published in the area affected and by posting it at the scheduled stopping places on the highway in respect of which the service has not been provided.
- 4.—(1) The Minister shall not issue an operating licence Approval to any person unless the Board, upon the application of that person in the prescribed form has, after a hearing of the application as required by *The Ontario* R.S.O. 1960, Highway Transport Board Act, approved the issue of the licence to him on the ground that public necessity and convenience warrant the issue of the licence and will be served thereby, and has issued a certificate to that effect to the Minister.
- (2) The Board may, in a certificate issued by it under Certificate this section, having regard to the requirements of public necessity and convenience,
 - (a) prescribe terms and conditions to govern the transportation of passengers or of passengers and express freight by public vehicles pursuant to the licence; or

(b) approve the conferring by the licence of special, exclusive or limited rights with respect to the operation of public vehicles and with respect to any highway or highways or portions thereof described in the certificate.

Approval for renewal (3) Notwithstanding subsection 1, the approval of the Board is not required for renewal of a licence unless the Minister refers the application for renewal to the Board, in which case subsection 1 applies.

Transfer of operating licence

5.—(1) No operating licence shall be transferred without the approval, in writing, of the Minister obtained on application in the prescribed form and payment of the prescribed fee.

Application for approval, hearing (2) The Minister shall refer an application for approval of the transfer of an operating licence to the Board and the Board shall hold a hearing and shall report to the Minister whether or not the public necessity and convenience served by the transportation service carried on under the licence will be prejudiced by the transfer of the licence.

Parties

(3) The Minister, the proposed transferor and transferee and such other persons as the Board specifies are parties to the proceedings under this section.

Decision of Minister (4) The Minister shall consider a report made by the Board to him under this section and may thereafter approve or refuse to approve the transfer and the Minister shall give reasons for his decision to the other parties to the proceedings.

Issue or transfer of shares of corporation

(5) The Minister may require the directors of a corporation that is the holder of an operating licence to report to the Board any issue or transfer of shares of its capital stock and where the Board finds, after a hearing, that the number of shares so issued or transferred affects the *de facto* control of the operations of the corporation such issue or transfer shall be deemed to constitute a transfer of all operating licences held by such corporation and, unless the transfer is approved, such operating licences shall terminate.

Review of terms of

(6) The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed, having regard to the requirements of public necessity

and convenience and the Board shall, after a hearing of the reference as required by The Ontario Highway R.S.O. 1960, Transport Board Act, report thereon to the Minister, and the Minister may confirm, amend or cancel the terms and conditions of the licence and shall give reasons for his decision to the licensee.

- 6.—(1) An operating licence expires on the 1st day of Expiry of licence July in each year unless on or before that day the licensee has applied for and acquired vehicle licences for the vehicles operated pursuant to the operating licence for the current year.
- (2) Where the holder of an operating licence has acquired Operating wehicle licences in accordance with subsection 1, his renewed on acquisition operating licence shall be deemed to be renewed. operating licence shall be deemed to be renewed.

(4) The Public Vehicles Act is amended by adding thereto R.S.O. 1960, the following sections:

amended

9a. Subject to section 9g, the Minister may suspend or Suspension cancel an operating licence,

operating

- (a) where the licensee fails to begin operations as a carrier in accordance with the licence within thirty days after the issue of the licence or within such further period as is specified in the licence:
- (b) where the licensee fails for a continuous period of thirty days to carry on operations as a carrier in accordance with the licence;
- (c) where the licensee is financially incapable of providing or continuing to provide transportation services in accordance with this Act and the regulations or the terms and conditions of the licence or of meeting his financial responsibilities to persons using such services;
- (d) where the licensee or any person under his control and direction contravenes this Act or The Highway Traffic Act or the regulations R.S.O. 1960, hereunder or thereunder or the terms and conditions of the licence and such contravention affords reasonable grounds for believing that the business of a carrier will not be carried on pursuant to the licence in accordance with the requirements of such Acts or regulations or such terms and conditions.

Vehicle licence, required 9b. Notwithstanding the provisions of any private Act, no person shall operate a public vehicle unless the vehicle is licensed as a public vehicle under this Act.

Issue to holder of operating licence

9c.—(1) Subject to subsection 2 and section 9f, the holder of an operating licence is entitled, upon application to the Minister in the prescribed form, to be issued by the Minister vehicle licences for public vehicles for operation pursuant to his operating licence.

To registered owner only

(2) No vehicle licence shall be issued for a public vehicle except to the person registered as owner of the vehicle under *The Highway Traffic Act*.

R.S.O. 1960, c. 172

Rights

licence

under vehicle 9d.—(1) A vehicle licence authorizes the holder to operate the vehicle for which it is issued as a public vehicle on the highways designated in his operating licence or on charter or special trips in accordance with the regulations.

Expiry of

licence

(2) A vehicle licence expires on the 31st day of March in each year.

Transfer

(3) Where a vehicle for which a vehicle licence was issued is sold to the holder of an operating licence, the Minister may transfer the vehicle licence and licence plate for the vehicle to such holder, but no vehicle licence may be transferred in any other case.

Number of passengers and tonnage of freight 9e.—(1) The Minister may, in a vehicle licence fix the number of passengers or tonnage of express freight or both, that the vehicle may carry and, subject to subsection 1 of section 16, no vehicle shall at any time carry more passengers or more tonnage than is fixed by the licence issued with respect to the vehicle.

Licence plate (2) Every public vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous place, a licence number issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year.

Refusal to issue or cancellation of vehicle licence 9f. Subject to section 9g, the Minister may refuse to issue or may cancel a vehicle licence if the applicant or licensee is not, or ceases to be, registered as owner of the vehicle under *The Highway Traffic Act* or if the vehicle does not comply with the requirements of this Act or *The Highway Traffic Act* or the regulations hereunder or thereunder.

9g.—(1) Where the Minister proposes,

proposal to cancel, etc., hearing

- (a) to suspend or cancel an operating licence under section 9a: or
- (b) to refuse to issue or to cancel a vehicle licence under section 9f,

he shall cause notice of his proposal together with written reasons therefor to be served on the applicant or licensee informing him that he has a right to a hearing by the Board if he mails or delivers, within fifteen days after service on him of the notice from the Minister, notice in writing requiring a hearing to the Minister and the Board and the applicant or licensee may so require such a hearing.

(2) Where an applicant or licensee,

Where hearing required or

- (a) does not give notice in accordance with sub-not required section 1 requiring a hearing by the Board, the Minister may forthwith refuse to issue or suspend or cancel his licence; or
- (b) gives notice in accordance with subsection 1 requiring a hearing by the Board, the Minister shall refer the matter to the Board for a hearing.
- (3) The Minister may cause a notice under subsection 1 Service to be served personally or by registered mail addressed to the applicant or licensee at his address last known to the Minister and, where notice is served by registered mail, the notice shall be presumed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the Board that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

(4) The Board, on application of an applicant or licensee, Extension time for may extend the time for giving notice requiring a giving notice by hearing under subsection 1 either before or after applicant expiration of the time fixed therein, where the Board is satisfied that there are prima facie grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as the Board considers proper consequent upon the extension.

Parties to hearing (5) The Minister, the applicant or licensee and such other persons as the Board may specify are parties to a hearing under this section.

Notice of hearing (6) Notice of a hearing under this section shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of his licence.

Examination of documentary evidence (7) The Minister shall afford to the applicant or licensee, or his representative, an opportunity to examine before the hearing any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.

Report to Minister (8) The Board shall, after a hearing under this section, make a report to the Minister which shall set out its findings of fact and conclusions of law and its recommendations as to the issue, suspension or cancellation of the licence to which it relates.

Decision of Minister (9) After considering a report of the Board under this section, the Minister may carry out the proposal or refrain from carrying out the proposal to which it relates and shall give reasons for his decision to the applicant or licensee.

R.S.O. 1960, c. 337, ss. 10-12, re-enacted

(5) Sections 10, 11 and 12 of *The Public Vehicles Act* are repealed and the following substituted therefor:

Tolls

10.—(1) Subject to section 11, no tolls shall be charged by the licensee for services rendered pursuant to his operating licence until a tariff thereof has been filed with and approved by the Minister as being fair and reasonable, or otherwise than in accordance with such tariff.

Revised tariff of tolls (2) Subject to section 11, where a tariff of tolls has been approved by the Minister under subsection 1, the Minister may at any time revise such tariff and make such changes therein as are fair and reasonable and thereafter no tolls shall be charged except in accordance with the revised tariff.

Reference to Board 11.—(1) Before refusing to approve a tariff of tolls filed with him or before revising a tariff of tolls without the consent of the licensee who filed the tariff, the Minister shall refer the matter to the Board for a hearing and report.

- (2) Pursuant to a reference under this section, the Board Hearing shall hold a hearing to inquire whether the tariff of tolls should be approved as filed or approved with amendments or revised.
- (3) The Minister, the licensee and such other persons as Parties the Board may specify are parties to a hearing under this section.
- (4) The Board shall at the conclusion of a hearing under Report to this section make a report to the Minister, which shall set out a summary of the representations of the parties, its findings of fact and any other information that it considers relevant to determining fair and reasonable rates.
- (5) After considering the report of the Board under this Decision of section, the Minister may approve the tariff of tolls filed with him either as the tariff was filed or as amended or may revise the tariff of tolls to which the report relates and shall give written notice of his decision to the licensee stating the reasons therefor.
- 12.—(1) The holder of an operating licence shall pay to the Fees, Minister fees in accordance with this section for his operating and vehicle licences for each month during the currency of his operating licence on or before the 15th day of the next succeeding month.
- (2) The fees payable under this section are,

amount of

- (a) three cents for each one hundred passenger miles of travel, or portion thereof, over a Class A highway; and
- (b) two cents for each one hundred passenger miles of travel, or portion thereof, over a Class B highway.
- (3) For the purposes of subsection 2, passenger miles of Passenger miles of travel shall be computed,
 - (a) in the case of scheduled trips, by multiplying,
 - (i) the seating capacity of each vehicle operated, or

(ii) the average seating capacity where two or more vehicles having different seating capacities are operated,

by the number of miles travelled in the month; and

(b) in the case of a chartered trip or a special trip as prescribed by the regulations, by multiplying the seating capacity of each vehicle used by the number of miles actually travelled on the trip each way.

Seating capacity

(4) For the purposes of subsection 3, seating capacity shall be computed by dividing by eighteen the aggregate length of inches of all seats provided for passengers in a vehicle but, where a seat is designed for the accommodation of one or two passengers only, the actual aggregate number of passenger seats shall be used.

Report where more than one vehicle operated (5) Where more than one vehicle is operated by a licensee on a scheduled trip, the licensee shall forward to the Department on the day following the trip a report indicating the number of vehicles.

Exemptions

- (6) No fees are payable under this section for the operation of,
 - (a) vehicles licensed as school buses in accordance with the regulations; or
 - (b) public vehicles owned by non-residents of Ontario and,
 - (i) operated in Ontario on a scheduled service originating outside Ontario only within ten miles of the provincial boundary, or
 - (ii) operated in Ontario exclusively on chartered trips originating outside Ontario,

if the province or state of the non-residents grants similar exemptions and privileges for public vehicles owned by residents of Ontario. (7) In this section,

A and B highways

- (a) "Class A highway" means The King's Highway; and
- (b) "Class B highway" means a highway other than.
 - (i) the King's Highway,
 - (ii) a highway under the jurisdiction of The Niagara Parks Commission, and
 - (iii) a highway under the jurisdiction of the council of a city, town or village.
- (6) The Public Vehicles Act is amended by adding thereto R.S.O. 1960, c. 337. the following sections: amended
 - 22a.—(1) A member of the Ontario Provincial Police Force Examination of vehicle, or an officer of the Department may examine at any etc. reasonable time, any public vehicle, its contents and equipment.
 - (2) An officer of the Department may at any reason-Examination able time examine all books, records and documents etc., of of the holder of an operating licence relating to the operating business of operating public vehicles for the purpose licence of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder.

22b. Each person employed in the administration of this Matters confidential Act, including any person making an examination under section 22a, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment or on an examination under section 22a and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceeding under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

R.S.O. 1960, c. 337, s. 25, cl. *a*, re-enacted; cl. *b*, repealed

- (7) Clauses a and b of section 25 of The Public Vehicles Act are repealed and the following substituted therefor:
 - (a) governing the forms of applications and licences under this Act.

R.S.O. 1960, c. 337, s. 25, cls. h, n, repealed

(8) Clauses h and n of the said section 25 are repealed.

R.S.O. 1960, c. 343, s. 4, subs. 2, re-enacted **75.**—(1) Subsection 2 of section 4 of *The Railway Fire Charge Act* is repealed and the following substituted therefor:

Apportionment of charge (2) If at any time any question arises between the owner and tenant of any railway land as to the proportion in which the charge imposed by this Act is to be borne as between the owner and tenant, either the owner or the tenant may apply to the collector to fix the proportion and the decision of the collector is, unless appealed from as provided in this Act, final and binding as between the owner and the tenant.

R.S.O. 1960, c. 343, s. 5, re-enacted (2) Section 5 of *The Railway Fire Charge Act* is repealed and the following substituted therefor:

Exemption of agricultural lands

5. Where railway lands or any part thereof were during a calendar year actually and in good faith in use for agricultural purposes, the owner or tenant is entitled to a reduction of the charge payable by him under this Act in the following year to the extent to which such railway lands were so used if he applies therefor to the collector on or before the first day of January in the following year, and the collector may decide whether such owner or tenant has established that he is entitled to such reduction and the decision of the collector is, unless appealed from as provided in this Act, final and binding.

R.S.O. 1960, c. 343, amended (3) The Railway Fire Charge Act is amended by adding thereto the following section:

Appeal

- 8a.—(1) An owner or tenant may appeal to the county or district court of the county or district in which the lands are situate by filing in the prescribed form a notice of appeal claiming that,
 - (a) he has been wrongly included by the collector in the roll;
 - (b) the amount of the charge stated in a bill sent by the collector to him is wrong; or

- (c) any decision of the collector under section 4 or 5 is wrong.
- (2) The notice of appeal shall be filed with the court Notice and served on the collector not later than sixty days after receipt of a bill by the appellant sent to to him by the collector under section 8.
- (3) Where a notice of appeal has been filed with the Hearing court within the time limited by subsection 2, the judge thereof shall, on the application of either the appellant or collector, fix a time for hearing the appeal and the party who obtains the appointment shall serve on the other party notice of the hearing fifteen days before the hearing.
- (4) The judge, after hearing the appellant and the collector and any evidence adduced, may vary or annul the entry of the appellant's name in the roll or the amount of the charge stated in the bill sent to the appellant by the collector or the decision of the collector complained of.
- (5) Subsections 4, 5 and 6 of section 18 of *The Provincial* Application Land Tax Act, 1961-62 apply mutatis mutandis with c. 111 respect to the decision of the court and the proceedings on an appeal under this section.
- **76.**—(1) Subsection 1 of section 1 of The Real Estate and R.S.O. 1960, Business Brokers Act, as amended by section 1 of The Real Estate subs. 1, and Business Brokers Amendment Act, 1964 and section 1 of (1968-69, The Real Estate and Business Brokers Amendment Act, 1968-69, subs. 1), is further amended by relettering clauses cb and cc as clauses amended cc and cd and by adding thereto the following clauses:
 - (ba) "business premises" does not include a dwelling;
 - (cb) "dwelling" means any premises or any part thereof occupied as living accommodation.
- (2) Sections 6, 8 and 9 of *The Real Estate and Business* R.S.O. 1960, Brokers Act, as re-enacted by section 2 of *The Real Estate and* ss. 6, 8, 9 Business Brokers Amendment Act, 1968-69, are repealed and the c. 105, s. 2), re-enacted following substituted therefor:
 - 6.—(1) An applicant is entitled to registration or Registration renewal of registration by the Registrar except where,
 - (a) having regard to his financial position, the

- applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations

Refusal to register

8.—(1) Subject to section 9, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 6 or 7.

Revocation

(2) Subject to section 9, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 or 7 if he were an applicant or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke 9.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

- (2) A notice under subsection 1 shall inform the applicant Notice requiring or registrant that he is entitled to a hearing by the hearing Tribunal if he mails or delivers, within fifteen days after the notice under section 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
- (3) Where an applicant or registrant does not require Powers of a hearing by the Tribunal in accordance with sub-where no section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
- (4) Where an applicant or registrant requires a hearing Powers of by the Tribunal in accordance with subsection 2, where the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

- (5) The Tribunal may attach such terms and conditions conditions of order to its order or to the registration as it considers proper to give effect to the purposes of this Act.
- (6) The Registrar, the applicant or registrant who has Parties required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
- (7) Notwithstanding subsection 1, the Registrar may Voluntary cancellation cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.
- (8) Where, within the time prescribed therefor or, Continuation if no time is prescribed, before expiry of his regis-tion pending renewal tration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order of Tribunal effective, stay

1966, c. 41

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

R.S.O. 1960, c. 344, ss. 10-22 (1968-69, c. 105, s. 2), repealed

(3) Sections 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of The Real Estate and Business Brokers Act, as re-enacted by section 2 of The Real Estate and Business Brokers Amendment Act, 1968-69, are repealed.

R.S.O. 1960, c. 344, s. 26 (1968-69, c. 105, s. 2), subs. 1, cl. *a*, re-enacted

- (4) Clause a of subsection 1 of section 26 of The Real Estate and Business Brokers Act, as re-enacted by section 2 of The Real Estate and Business Brokers Amendment Act, 1968-69, is repealed and the following substituted therefor:
 - (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

R.S.O. 1960, c. 344, s. 27 (1968-69, c. 105, s. 2), re-enacted (5) Section 27 of The Real Estate and Business Brokers Act, as enacted by section 2 of The Real Estate and Business Brokers Amendment Act, 1968-69, is repealed and the following substituted therefor:

Investigations by order of Minister

27. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such investigation as if it were an inquiry under that Act.

1971, c. . . .

Investigation

by Director

- 27a.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,
 - (a) contravened any of the provisions of this Act or the regulations; or

1953-54, c. 51, (Can.)

(b) committed an offence under the Criminal Code (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred, and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an Powers of investigator investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subjectmatter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of The Public Inquiries Act, 1971, c. ... 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

- (3) No person shall obstruct a person appointed to make Obstruction an investigation under this section or withhold from investigator him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.
- (4) Where a provincial judge is satisfied, upon an ex Search warrant parte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subjectmatter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an

order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment of experts

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Matters confidential

- 27b.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 24, 25, 26, 27 or 27a shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except.
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (2) No person to whom subsection 1 applies shall be Testimony required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.
- (6) Section 28 of The Real Estate and Business Brokers R.S.O. 1960, Act, as enacted by section 2 of The Real Estate and Business (1968-65, c. 1968-69, is amended by striking out amended "27" in the second line and inserting in lieu thereof "27a".
- (7) Subsection 1 of section 29 of *The Real Estate and Business* R.S.O. 1960, *Brokers Act*, as re-enacted by section 2 of *The Real Estate* (1965, s. 2), and *Business Brokers Amendment Act*, 1968-69, is repealed subs. 1, re-enacted and the following substituted therefor:

(1) Where,

Order to refrain from dealing with

- (a) an investigation of any person has been ordered under section 27a; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the Bankruptcy Act (Canada), The

R.S.O. 1960, cc. 197, 71 1970, c. 25 R.S.C. 1952, cc. 14, 296

Judicature Act, The Corporations Act, The Business Corporations Act, 1970 or the Winding-up Act (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1960, c. 344, s. 29 (1968-69, c. 105, s. 2), amended

(8) The said section 29 is amended by adding thereto the following subsection:

Application for cancellation of direction or registration

(5) Any person referred to in clause a or b of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

R.S.O. 1960, c. 344, s. 54*f*, subs. 1 (1968-69, c. 105, s. 14), re-enacted (9) Subsection 1 of section 54f of The Real Estate and Business Brokers Act, as re-enacted by section 14 of The Real Estate and Business Brokers Amendment Act, 1968-69, is repealed and the following substituted therefor:

Inquiries re prospectus

- (1) The Registrar may make such inquiries with respect to a prospectus as are necessary to determine whether a certificate of acceptance should be issued, including,
 - (a) an examination of the subdivision and any of the surrounding circumstances; and
 - (b) the obtaining of reports from public authorities or others within or outside Ontario.

R.S.O. 1960, c. 344, s. 54*g* (1962-63, c. 123, s. 24), re-enacted; ss. 54*h*, 54*j* (1962-63, c. 123, s. 24), repealed

(10) Sections 54g, 54h and 54j of The Real Estate and Business Brokers Act, as enacted by The Real Estate and Business Brokers Amendment Act, 1962-63, are repealed and the following substituted therefor:

- 54g.—(1) The Registrar shall grant the certificate of Powers of acceptance where the requirements of this Act and the regulations have been complied with and he shall not refuse to grant such a certificate without serving a notice of his proposal to refuse on the person on whose behalf the prospectus was filed, and section 9 applies mutatis mutandis to the proposal in the same manner as to a proposal to refuse to register an applicant.
 - (2) Where it appears to the Registrar, subsequent to the Stop orders filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in section 54e exist, he may revoke the certificate of acceptance and order that all trading in the subdivisions to which the prospectus refers shall cease forthwith.
 - (3) Subject to subsection 4, the Registrar shall not revoke Notice of a certificate of acceptance and make an order under hearing subsection 2 without serving notice of his proposal to revoke the certificate and make the order, together with written reasons therefor, on the person on whose behalf the prospectus was filed, and section 9 applies mutatis mutandis to the proposal in the same manner as to a proposal by the Registrar to revoke a registration.
 - (4) The Registrar, by notice to the person on whose Provisional behalf a prospectus was filed, may provisionally suspend the certificate of acceptance and make a provisional order under subsection 2, where continued trading in the subdivision is, in the Registrar's opinion an immediate threat to the public interest and the Registrar so states in such notice giving his reasons therefor, and thereafter section 9 applies as if the notice given under this section was a notice of proposal to revoke the certificate and make the order under subsection 3.
- (11) Section 55 of The Real Estate and Business Brokers R.S.O. 1960, Act, as re-enacted by section 16 of The Real Estate and (1968-69, c. 105, Business Brokers Amendment Act, 1968-69, is repealed and the re-enacted following substituted therefor:
 - 55. Where the Registrar believes on reasonable and False probable grounds that a broker is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the

use of such material and section 9 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse a registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.

s. 10), subs. 2, re-enacted

R.S.O. 1960, (12) Subsection 2 of section 56 of The Real Estate and (1968-69, c. 105, Business Brokers Act, as enacted by section 16 of The Real Estate and Business Brokers Amendment Act, 1968-69, is repealed and the following substituted therefor:

Where service deemed to be made (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

R.S.O. 1960,

(13) Clause d of section 57b of The Real Estate and Business (13) Clause a of section 5/b of The Real Estate and Business (1968-69, c. 105, s. 16), cl. d., amended and Business Brokers Amendment Act, 1968-69, is amended by and Business Brokers Amendment Act, 1968-69, is amended by striking out "or to any such person, document or material," in the second and third lines.

R.S.O. 1960, c. 344, s. 58, repealed

(14) Clause i of section 58 of The Real Estate and Business Brokers Act is repealed.

R.S.O. 1960. re-enacted

77. Section 122 of The Registry Act is repealed and the following substituted therefor:

Powers of Inspector under 1971, c. . .

122. Where the Inspector in the performance of his duties under this Act has occasion to make an inquiry or to determine any matter he has the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to such inquiry or determination as if it were an inquiry under that Act.

R.S.O. 1960, c. 375, s. 1, subs. 1, cl. *a*, re-enacted

- **78.**—(1) Clause a of section 1 of The Silicosis Act is repealed and the following substituted therefor:
 - (a) "Director" means the Senior Physician of the Occupational Chest Disease Section of the Department of Health;
 - (aa) "health certificate" means a health certificate issued under the regulations;

- (ab) "medical examiner" means a medical examiner designated or appointed in accordance with the regulations;
- (ac) "Minister" means the Minister of Health;
- (2) The Silicosis Act is amended by adding thereto the R.S.O. 1960, following section:
 - 3a.—(1) Health certificates under this Act may be Health certificates, issued, renewed or cancelled by medical examiners in issue, etc. accordance with the regulations.
 - (2) Where a medical examiner, after an examination of Application any person, refused to issue to him a health examination certificate or refuses to renew or cancels his health certificate, the person examined may apply in writing to the Director for a re-examination.
 - (3) An application under subsection 2 for a re-examina- Application tion shall be accompanied by a report by a legally accompanied qualified medical practitioner other than the medical physician examiner referred to in subsection 2 reporting that in his opinion the applicant is eligible to be issued a health certificate under this Act and the regulations.
 - (4) Upon receiving an application for re-examination Re-examination accompanied by the report referred to in subsection 3, the Director shall cause the applicant to be re-examined by a medical examiner other than the medical examiner referred to in subsection 2 or the medical practitioner referred to in subsection 3, and the examiner conducting the re-examination shall, after examining the applicant and considering the reports of such medical examiner and such medical practitioner, determine whether or not a health certificate should be issued to the applicant or his certificate renewed or the cancellation of his certificate revoked and the decision of the examiner making the re-examination shall be final.
- **79.** Section 2 of The Spruce Pulpwood Exportation Act R.S.O. 1960, is repealed.
- **80.** The Stock Yards Act is amended by adding thereto $\frac{R.S.O. 1960}{c. 385}$, the following section:
 - 12a. Where the Board refuses an approval requested under Appeal to section 12, the applicant for approval may appeal

the decision of the Board to the Minister who, after affording the applicant an opportunity to make representations, may confirm, rescind or alter the decision of the Board as the Minister considers proper, and the decision of the Minister is final.

R.S O. 1960, c. 390, s. 7, re-enacted

81.—(1) Section 7 of *The Surveys Act* is repealed and the following substituted therefor:

Examination re boundaries,

7.—(1) Where a surveyor has reasonable grounds for believing that a person has information concerning a line, boundary, corner or post that may assist him in ascertaining its true position, or has a writing, plan or document concerning the true position of a line, boundary, corner or post, he may examine such person under oath or require such person to produce such writing, plan or document for his inspection and for such purposes the surveyor has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. . . .

Statement

under oath

(2) The surveyor may cause evidence taken by him under this section to be put in writing in the form of a statement under oath.

R.S.O. 1960, c. 390, s. 60, cl. *c*, repealed

(2) Clause c of section 60 of The Surveys Act is repealed.

R.S.O. 1960, c. 396, s. 4, subs. 2, cls. *c-e*, re-enacted **82.**—(1) Clauses c and d and clause e, as amended by section 3 of *The Theatres Amendment Act, 1960-61*, of subsection 2 of section 4 of *The Theatres Act*, are repealed and the following substituted therefor:

- (c) by order in writing, to prohibit the use or exhibition of any film that he believes on reasonable and probable grounds may not be safely used or exhibited;
- (d) by order in writing, to prohibit the use of a projector that he believes on reasonable and probable grounds was installed or operated contrary to this Act or the regulations;
- (e) to seize, remove and hold any projector that he believes on reasonable and probable grounds was installed or was or is operated, or any film or advertising that he believes on reasonable and probable grounds was exhibited or was or is used, contrary to this Act or the regulations.

- (2) Section 6 of *The Theatres Act*, as amended by section $4^{\rm R.S.O.~1960}_{\rm c.~396,~s.~6}$, of *The Theatres Amendment Act*, 1960-61, is repealed and the re-enacted following substituted therefor:
 - 6.—(1) Any person to whom an inspector has issued Review of an order under section 4 or who claims an interest in order any projector, film or advertising seized by an inspector under section 4 may, within ten days after the issue of such order or after seizure, apply to the Director for a review of the order or release of the projector, film or advertising and the Director may, after a hearing, confirm, vary or annul the order of the inspector or direct the release of the projector, film or advertising.
 - (2) Where a projector, film or advertising has been seized Forfeiture of by an inspector under section 4,
 - (a) if no application for a review of the seizure is made to the Director within ten days after the seizure; or
 - (b) if the Director finds after a hearing that the projector, film or advertising was installed, used or exhibited in contravention of this Act or the regulations,

the Director may, subject to appeal as herein provided, direct that the projector, film or advertising is forfeited to the Crown.

- (3) Section 9 of *The Theatres Act* is repealed and the R.S.O. 1960, s. 9, following substituted therefor:
 - 9.—(1) All licences and renewals, suspensions or cancellations thereof under this Act shall be issued or suspension, etc., of licences
 - (2) Where, within the time prescribed therefor or, if no Continuation of licences time is prescribed, before expiry of his licence, a pending licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,
 - (a) until the renewal is granted; or
 - (b) where he is served with notice of a hearing by the Director, until the decision of the Director has become final.

Notice of hearing (3) Where, under this Act, the Director is authorized to refuse to renew or to suspend or cancel a licence after a hearing, the notice of the hearing shall contain a statement of the facts or conduct which the Director believes warrant the intended action and shall afford to the licensee a reasonable opportunity to show or to achieve compliance before such hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(4) The Director shall afford to an applicant or licensee who will be affected by a decision pursuant to a hearing, or his representative, an opportunity to examine, before such hearing any written or documentary evidence that will be introduced, or any report the contents of which will be given in evidence at the hearing.

R.S.O. 1960, c. 396, s. 13, re-enacted (4) Section 13 of *The Theatres Act* is repealed and the following substituted therefor:

Application for licence

13.—(1) Subject to subsection 2, an applicant for a theatre licence is entitled, on payment of the prescribed fee, to be granted a theatre licence for the class of theatre prescribed by this Act applicable to the building in which the theatre is located, or the premises in which the films are exhibited.

Refusal to issue licence

- (2) The Director may, after a hearing, refuse to issue a theatre licence to an applicant therefor if,
 - (a) a theatre licence was previously issued to him under this Act and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist: or
 - (b) the theatre or the building in which the theatre is located or the premises in which films are exhibited do not conform to the requirements of this Act and the regulations.

R.S.O. 1960, c. 396, ss. 15, 17, re-enacted (5) Section 15 and section 17, as amended by section 8 of *The Theatres Amendment Act, 1960-61*, of *The Theatres Act* are repealed and the following substituted therefor:

Application for renewal

15. Subject to section 17, the holder of a theatre licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee.

17.—(1) The Director may, after a hearing, refuse to Refusal to renew, or suspend or cancel a theatre licence,

renew, suspension.

cancellation

- (a) if the licensee, manager or person in charge of the theatre has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in operating the theatre; or
- (b) if the theatre, or the building in which the theatre is located or the premises in which the films are exhibited do not conform to the requirements of this Act and the regulations.
- (2) The Director may provisionally suspend a theatre Provisional suspension licence if he believes on reasonable grounds that the theatre cannot be safely operated as a theatre and shall immediately give notice of such provisional suspension to the licensee, manager or person in charge of the theatre.
- (3) Where the Director has provisionally suspended a Hearing may be theatre licence under subsection 2, if the licensee,
 - (a) within ten days after receiving notice of the provisional suspension requests the Director to hold a hearing, the Director shall hold a hearing and may thereafter revoke the provisional suspension or, if he finds that the theatre cannot be safely operated, may suspend or cancel the licence; or
 - (b) does not request the Director to hold a hearing within ten days after receiving notice of the provisional suspension, the Director may cancel the licence and no new licence in place of it shall be issued until such time as the Director finds, on application of the licensee, that the theatre can be safely operated.
- (6) The Theatres Act is amended by adding thereto the R.S.O. 1960, c. 396, following section: amended
 - 30a. The examinations and tests provided by the Director Examinations and tests shall be designed to determine the competence and ability of an applicant to act as a projectionist under the class of licence for which he applies.
- (7) Sections 32, 33, 34, 35 and 36 of *The Theatres Act* are c. 396, ss. 32-36, re-enacted repealed and the following substituted therefor:

Licences, first-class 32.—(1) Subject to subsection 4, the holder of a secondclass licence who has passed the examination and tests required by the Director for a first-class licence is entitled, on payment of the prescribed fee, to be issued a first-class licence by the Director.

second-class

- (2) Subject to subsection 4, a person,
 - (a) who is the holder of an apprentice licence and who has served as an apprentice for the period prescribed by the regulations; or
 - (b) who has operated projection equipment elsewhere than in Ontario for a period longer than the period prescribed by the regulations to be served by an apprentice,

and who has passed the examinations and tests required by the Director for a second-class licence, is entitled, on payment of the prescribed fee, to be issued a second-class licence by the Director.

Apprentice

- (3) Subject to subsection 4, a person,
 - (a) who is eighteen years or more of age; and
 - (b) who furnishes to the Director,
 - (i) proof of age,
 - (ii) satisfactory evidence of physical ability to handle projection and fire-fighting equipment, and
 - (iii) satisfactory evidence that he does not suffer from any physical or mental disability that would prevent him from operating projection equipment safely,

is entitled, on payment of the prescribed fee, to be issued an apprentice licence by the Director.

Refusal to issue

(4) The Director may, after a hearing, refuse to issue a projectionist licence to a person to whom a projectionist licence was previously issued under this Act if such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist.

- 33. Every projectionist licence expires on the 31st day Expiry of of March in each year unless renewed on or before that day.
- 34. Projectionist licences are not transferable.

Transfer of licence

- 35. Subject to section 36, the holder of a projectionist Renewal licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee.
- 36. The Director may, after a hearing, refuse to renew or Refusal to suspend or cancel the licence of a projectionist, suspension or cancellation
 - (a) if he has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in the operation of a projector; or
 - (b) if he suffers from any physical or mental disability that prevents him from operating projection equipment safely or from handling fire-fighting equipment.
- (8) Section 45 of *The Theatres Act* is repealed and the $^{R.S.O.\ 1960}_{c.\ 396,\ s.\ 45,}$ following substituted therefor:
 - 45.—(1) Subject to subsection 2, an applicant for a film exchange exchange licence is entitled, on payment of the licence, application prescribed fee, to be granted a film exchange licence.
 - (2) The Director may, after a hearing, refuse to issue a Refusal film exchange licence to an applicant therefor,
 - (a) if a film exchange licence was previously issued to him under this Act and such licence is suspended or such licence was cancelled and the grounds for such cancellation continue to exist; or
 - (b) where the application is for a standard film exchange licence, if the building in which the film exchange is located,
 - (i) is not of fire resistive construction in that portion of the building in which film is handled or stored,
 - (ii) is occupied in whole or in part as a dwelling,

- (iii) is occupied in whole or in part by another business that is dangerous to the carrying on of the business of the film exchange,
- (iv) otherwise does not comply with this Act and the regulations.

R.S.O. 1960, c. 396, ss. 47-49, re-enacted (9) Section 47, as amended by section 15 of *The Theatres Amendment Act*, 1960-61, and sections 48 and 49 of *The Theatres Act* are repealed and the following substituted therefor:

Renewal of licence 47. Subject to section 49, the holder of a film exchange licence is entitled to a renewal thereof upon application therefor and payment of the prescribed fee.

Transfer of licence

48.—(1) The holder of a film exchange licence is entitled to transfer his licence with the written consent of the Director.

Consent of Director (2) The Director shall not refuse his consent under subsection 1 if the transferee would be entitled to the issue of the film exchange licence if he made application therefor.

Refusal to renew, suspension or cancellation

- 49. The Director may, after a hearing, refuse to renew or suspend or cancel any film exchange licence if,
 - (a) the licensee has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in carrying on the business of a film exchange; or
 - (b) the issue of a licence would be refused under clause b of subsection 2 of section 45 if the licensee were an applicant for a licence.

R.S.O. 1960, c. 396, s. 55, re-enacted (10) Section 55 of *The Theatres Act* is repealed and the following substituted therefor:

Approval of building plans

55.—(1) No person shall construct or alter any building or premises intended for use as a theatre or to be occupied by a film exchange until the plans of the proposed construction or alteration have been submitted to the Director and have been approved by the Director in that they comply with the provisions of this Act and the regulations and provide for the safe operation of the theatre or film exchange.

- (2) Before refusing approval of any plans submitted to Hearing him under subsection 1, the Director shall hold a hearing of the application for approval.
- (11) Subsection 2 of section 58 of *The Theatres Act* is $^{R.S.O.\ 1960}_{c.\ 396,\ s.\ 58}$, repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) Subject to section 59a, an applicant for a licence under ^{Issue} this section is entitled, on payment of the prescribed fee, to be issued the licence.
- (12) Subsection 2 of section 59 of *The Theatres Act* is repealed $^{R.S.O.\ 1960}_{c.\ 396,\ s.\ 59}$, and the following substituted therefor: $^{Subs.\ 2}_{re-enacted}$
 - (2) Subject to section 59a, an applicant for a licence under Issue this section is entitled, on payment of the prescribed fee, to be issued the licence.
- (13) The Theatres Act is amended by adding thereto the R.S.O. 1960, following section:
 - 59a.—(1) The Director may, after a hearing, refuse to Refusal issue a licence to an applicant for a licence under section 58 or 59 who was previously issued a licence of the type for which he applies if such licence was cancelled and the grounds for such cancellation continue to exist.
 - (2) The Director may, after a hearing, cancel a licence Cancellation issued under section 58 or 59 if the licensee has contravened any of the provisions of this Act or the regulations and his conduct raises a reasonable doubt as to whether he will comply with this Act and the regulations in operating a projector or exhibiting films pursuant to the licence.
- (14) Section 60 of *The Theatres Act* is repealed and the R.S.O. 1960, following substituted therefor:
 - 60. No licence shall be suspended under this Act for a Suspension period longer than three months.
 - 60a.—(1) Any person who considers himself aggrieved by Appeal a decision of the Director, or Assistant Director under this Act may, within fifteen days after receipt of the decision, appeal to the judge of the county or district court of the county or district,
 - (a) in the case of a decision relating to a licence for or approval of a theatre or film exchange, in which the building or premises to which the decision relates are located; or

(b) in any other case, where the person to whom the decision relates resides,

by applying to the judge for a hearing.

Extension of time for appeal

(2) A judge to whom an application is made under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are prima facie grounds for appeal and that there are reasonable grounds for applying for the extension and may give such direction as he considers proper consequent upon the extension.

Hearing denovo

(3) Where a person appeals under this section to a judge, the judge shall appoint a time for and hear the appeal by way of a hearing *de novo* and the judge may affirm or reverse the decision of the Director or make a new decision in substitution therefor and for such purpose has all the powers of the Director to make such decision as he considers proper.

Parties

(4) The appellant and the Director or the Assistant Director from whose decision the appeal is taken are parties to an appeal under this section.

Recording of evidence

(5) The oral evidence taken before the judge at a hearing shall be recorded, and if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings of fact

(6) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

60b.—(1) Any party to proceedings before a judge under section 60a may appeal from his decision to the Supreme Court in accordance with the rules of court.

Record of proceedings

(2) Where any party appeals from a decision of a judge, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision was made, which, together with the transcript of the evidence if it is not part of the judge's record, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

- (4) An appeal under this section may be made on questions of law or fact or both and the court may exercise all the powers of the judge, and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper.
- 60c. The bringing of an appeal under section 60a or Effect of appeal on 60b does not affect the suspension or cancellation of suspension, a licence pending the disposition of the appeal.
- 60d. Where a licence has been suspended or cancelled Amendment of suspension, under this Act pursuant to a decision of the to, by Director or Assistant Director or by a judge or court on appeal therefrom, the Minister may, where he considers that undue hardship will be caused by such suspension or cancellation, and that it is not contrary to the purposes of this Act to do so, annul the suspension or cancellation.
- (15) Section 61 of *The Theatres Act* is repealed and the $^{R.S.O.\ 1960}_{c.\ 396,\ s.\ 61}$, following substituted therefor:
 - 61. Every person who contravenes any of the provisions of this Act or the regulations or any order of the Board, Director, Assistant Director or an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.
- (16) Subsection 1 of section 63 of *The Theatres Act* is R.S.O. 1960, c. 396, s. 63, subs. 1, subs. 1, amended
 - 21a. prescribing the period of time to be served by a person holding an apprentice licence as a projectionist before he is eligible to be granted a second-class licence as a projectionist.
- (17) Paragraph 29 of subsection 1 of the said section 63 R.S.O. 1960, c. 396, s. 63, subs. 1, par. 29, repealed
- 83.—(1) Section 5 of The Trench Excavators' Protection R.S.O. 1960. c. 407, s. 5, Act, as amended by section 6 of The Trench Excavators' re-enacted Protection Amendment Act, 1965, is repealed and the following substituted therefor:

Order of inspector

5.—(1) Where an inspector is of opinion that any provision of this Act or the regulations is being contravened, he may give such order in writing as is necessary to ensure compliance with such provision and, until such order is carried out, the work on that part of the trench in which the contravention occurs, other than such work as is necessary to carry out the order with safety, shall be suspended.

Appeal

(2) Any person who considers himself aggrieved by an order of an inspector made under subsection 1 may appeal to the chief officer who shall hear and dispose of the appeal as promptly as is practicable, but the bringing of such appeal does not affect the operation of the order appealed from pending disposition of the appeal.

Powers of chief officer

- (3) After hearing an appeal under this section, the chief officer may substitute his findings for those of the inspector and may,
 - (a) if he finds that no provision of this Act or the regulations is being contravened, rescind the order of the inspector; or
 - (b) if he finds that any provision of this Act or the regulations is being contravened, affirm the order of the inspector or make such new order in substitution therefor as is necessary to ensure compliance with this Act and the regulations.

Suspension of work

(4) Where, on an appeal under this section, the chief officer affirms the order of an inspector appealed from or makes a new order under subsection 3, the work upon that part of the trench in which the contravention occurs, other than such work as is necessary to carry out the order with safety, shall be suspended until such affirmed or new order is carried out.

Contravention of order (5) No person to whom an order of an inspector or the chief officer is directed under this section shall contravene or knowingly permit any person under his direction or control to contravene such order or to carry on work in contravention of subsection 1 or 3.

- 5a.—(1) Any person who considers himself aggrieved Appeal from by a decision of an inspector under this Act or the regulations, other than an order under section 5, may appeal to the chief officer who shall hear and dispose of the appeal.
- (2) On an appeal under this section, the chief officer may Powers of substitute his findings or opinions for those of the inspector who made the decision appealed from and may affirm or reverse the decision or make a new decision in substitution therefor and for such purpose the chief officer has all the powers of the inspector, and the decision of the chief officer shall stand in the place of and have like effect under this Act and the regulations as the decision of the inspector.
- (3) In this section, a decision of an inspector under Decision this Act or the regulations includes any decision, approvals, order, direction, approval, finding or permission made or given by an inspector under the authority of this Act or the regulations or the refusal thereof.
- 5b.—(1) An appeal under section 5 or 5a may be made How appeals in writing or orally or by telephone, but the chief made officer may require the grounds for appeal to be specified in writing before the hearing.
- (2) The appellant, the inspector from whom the appeal Parties is taken and such other persons as the chief officer may specify are parties to an appeal under section 5 or 5a.
- (2) Subsection 2 of section 24 of The Trench Excavators' R.S.O. 1960, Protection Act, as re-enacted by section 18 of The Trench (1965, c. 133, s. 18), subs. 2, Excavators' Protection Amendment Act, 1965, is repealed and the re-enacted following substituted therefor:
 - (2) Every person who is convicted of an offence for a Additional contravention of subsection 5 of section 5, in addition to the penalties mentioned in subsection 1, is liable to a fine of not more than \$100 a day for every day upon which the contravention continued.
- (3) Clause d of section 26 of The Trench Excavators' Pro-c. 407, s. 26, tection Act is repealed.

1968, c. 140, s. 1, subs. 1, amended

- 84.—(1) Subsection 1 of section 1 of The Upholstered and Stuffed Articles Act, 1968, as amended by section 1 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is further amended by relettering clauses a and aa as clauses aa and ab respectively and by adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;
 - (ac) "dwelling" means any premises or any part thereof occupied exclusively as living accommodation.

1968, c. 140, s. 4, subs. 2 (1968-69, c. 135, s. 3), amended (2) Subsection 2 of section 4 of The Upholstered and Stuffed Articles Act, 1968, as re-enacted by section 3 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is amended by striking out "the Registrar may refuse to grant registration where" in the first and second lines and inserting in lieu thereof "Subject to section 9, the Registrar may refuse to grant registration to a person who otherwise has complied with the requirements of subsection 1 where".

1968, c. 140, s. 7, subs. 2, re-enacted (3) Subsection 2 of section 7 of The Upholstered and Stuffed Articles Act, 1968, as amended by subsection 2 of section 6 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is repealed and the following substituted therefor:

Power of entry

(2) For the purposes of subsection 1, the Registrar or any person designated in writing by him may enter at any reasonable time the business premises of such person and make an inspection in relation to the complaint.

1968, c. 140, s. 7b (1968-69, c. 135, s. 7), subs. 1, cl. a, re-enacted

- (4) Clause a of subsection 1 of section 7b of The Upholstered and Stuffed Articles Act, 1968, as enacted by section 7 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is repealed and the following substituted therefor:
 - (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

1968, c. 140, amended (5) The Upholstered and Stuffed Articles Act, 1968 is amended by adding thereto the following section:

Matters confidential 7c. Every person employed in the administration of this Act, including any person making an inspection under

section 7, 7a, 7b or 20 shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment or inspection and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.
- (6) Section 8, as re-enacted by section 8 of The Up- ^{1968, c. 140, s. 8, (1968-69, holstered and Stuffed Articles Amendment Act, 1968-69, and c. 135, s. 8), re-enacted; sections 9, 10, 11, 12 and 13, as re-enacted by section 9 s. 9 (1968-69, of The Upholstered and Stuffed Articles Amendment Act, re-enacted; 1968-69, of The Upholstered and Stuffed Articles Act, 1968, (1968-69, are repealed and the following substituted therefor: repealed}
 - 8. Subject to section 9, the Registrar may suspend or Suspension revoke a registration where the registrant has revocation contravened this Act or the regulations and has refused to comply with this Act or the regulations after being requested to do so by the Registrar in writing.
 - 9.—(1) Where the Registrar proposes to refuse to grant Notice of proposal or renew a registration or proposes to suspend or to refuse revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.
 - (2) A notice under subsection 1 shall inform the applicant Notice or registrant that he is entitled to a hearing by the hearing Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.
 - (3) Where an applicant or registrant does not require a Powers of Registrar hearing by the Tribunal in accordance with sub-where no section 2, the Registrar may carry out the proposal stated in his notice under subsection 1.
 - (4) Where an applicant or registrant requires a hearing Powers of Tribunal where by the Tribunal in accordance with subsection hearing

2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation (7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Order of Tribunal effective, stay 1966, c. 41

(8) Notwithstanding that a registrant appeals from an order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

1968, c. 140, ss. 13*a*-13*i* (1968-69, c. 135, s. 9), repealed

(7) Sections 13a, 13b, 13c, 13d, 13e, 13f, 13g, 13h and 13i of The Upholstered and Stuffed Articles Act, 1968, as enacted by section 9 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, are repealed.

1968, c. 140, s. 19, subss. 3-6, re-enacted

(8) Subsection 3, as amended by subsection 1 of section 10 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, subsection 4, subsection 5, as amended by subsection 2 of section 10 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, and subsection 6 of section 19 of The Upholstered and Stuffed Articles Act, 1968, are repealed and the following substituted therefor:

Appeal

(3) Where the Registrar or local medical officer of health orders that an article be destroyed, he shall serve personally notice of such order, together with written reasons therefor, on the dealer informing him that he has a right to appeal to the Tribunal if he gives notice of appeal within five days after service of the notice by the Registrar or local medical officer of

health, and the dealer may, within such time, file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal.

- (4) Pending an appeal, the appellant shall not dispose Disposal of of the article forming the subject-matter of an prohibited appeal.
- (5) Where a dealer within five days after service on Notice of him of a notice by the Registrar or local medical officer of health under subsection 3,
 - (a) does not file a notice of appeal requiring a hearing by the Tribunal, the dealer shall forthwith carry out the order of the Registrar or local medical officer of health; or
 - (b) files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and, after the hearing, may by order confirm, revoke or modify the order appealed from and the appellant shall carry out the order of the Tribunal.
- (6) The Registrar or the local medical officer of health, Parties the dealer who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section.
- (7) Section 8e of The Department of Financial and Com-Application mercial Affairs Act, 1966 does not apply to proceed-s. 8e ings before the Tribunal under this section.
- (9) Clauses a, b and c of subsection 1 of section 20 of 1968, c. 140, The Upholstered and Stuffed Articles Act, 1968 are amended cls. a-c, amended the inserting after "the" in the first line of each clause "business".
- (10) The Upholstered and Stuffed Articles Act, 1968 is amended amended by adding thereto the following section:
 - 20a.—(1) Where an off-sale label is affixed to an article Appeal under section 20, the person affected may within five days thereafter file a notice of appeal with the Registrar and the Tribunal requiring a hearing by the Tribunal.

Hearing by Tribunal (2) Where a person affected within five days after the affixing of an off-sale label under subsection 1 files a notice of appeal requiring a hearing by the Tribunal, the Tribunal shall appoint a time for and hold a hearing and may by order confirm the affixing of the off-sale label or direct the Registrar or person designated in writing by him forthwith to remove the off-sale label.

Parties

(3) The Registrar or person designated in writing by him, the person affected who has required the hearing and such other persons as the Tribunal may specify are parties to the appeal before the Tribunal under this section.

Application of 1966, c. 41, s. 8e

(4) Section 8e of The Department of Financial and Commercial Affairs Act, 1966 does not apply to proceedings under this section.

1968, c. 140, s. 21, subs. 1, amended

- (11) Subsection 1 of section 21 of *The Upholstered and Stuffed Articles Act, 1968*, is amended by adding "or" at the end of clause b and by adding thereto the following clause:
 - (c) that has been ordered to be removed by the Tribunal under section 20a.

1968, c. 140, s. 24a (1968-69, c. 135, s. 12), subs. 2, re-enacted (12) Subsection 2 of section 24a of The Upholstered and Stuffed Articles Act, 1968, as enacted by section 12 of The Upholstered and Stuffed Articles Amendment Act, 1968-69, is repealed and the following substituted therefor:

Where service deemed to be made (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

1968-69, c. 136, s. 1, amended

- **85.**—(1) Section 1 of *The Used Car Dealers Act*, 1968-69 is amended by relettering clause *a* as clause *aa* and by adding thereto the following clauses:
 - (a) "business premises" does not include a dwelling;
 - (ba) "'dwelling" means any premises or any part thereof occupied as living accommodation.

- (2) Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 1968-69, 19 and 20 of *The Used Car Dealers Act, 1968-69* are repealed re-enacted; ss. 8-20, and the following substituted therefor:
 - 5.—(1) An applicant is entitled to registration or re-Registration newal of registration by the Registrar except where,
 - (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
 - (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
 - (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.
 - (2) A registration is subject to such terms and con-Conditions of ditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.
 - 6.—(1) Subject to section 7, the Registrar may refuse Refusal to to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5.
 - (2) Subject to section 7, the Registrar may refuse to Suspension or renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration.

Notice of proposal to refuse or revoke 7.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing (2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal and he may so require such a hearing.

Powers of Registrar where no hearing (3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection 2, the Registrar may carry out the proposal stated in his notice under subsection 1.

Powers of Tribunal where hearing (4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary cancellation (7) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation of registration pending renewal (8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.
- (9) Notwithstanding that a registrant appeals from an Order order of the Tribunal under section 8e of The Department of Financial and Commercial Affairs Act, 1966, c. 41 1966, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal.
- (3) Clause a of subsection 1 of section 24 of The Used 1968-69, c. 136, s. 24, Car Dealers Act, 1968-69 is repealed and the following sub-subs. 1, cl. a, stituted therefor:
 - (a) is entitled to free access to all books of accounts, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(4) Section 25 of *The Used Car Dealers Act*, 1968-69 is ¹⁹⁶⁸⁻⁶⁹, repealed and the following substituted therefor: re-enacted

- 25. The Minister may by order appoint a person to make Investigations an investigation into any matter to which this Act order of applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies to such 1971, c. ... investigation as if it were an inquiry under that Act.
- 25a.—(1) Where, upon a statement made under oath, the Investigation Director believes on reasonable and probable grounds that any person has,
 - (a) contravened any of the provisions of this Act or the regulations; or
 - (b) committed an offence under the Criminal Code $^{1953-54, c. 51}$ (Canada) or under the law of any jurisdiction

that is relevant to his fitness for registration under this Act.

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of investigator

- (2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,
 - (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subjectmatter of the investigation; and
 - (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

1971, c. . . .

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act*, 1971, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search warrant (4) Where a provincial judge is satisfied, upon an exparte application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being

investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause a of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this Removal of books, etc. section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause a of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

- (6) Any copy made as provided in subsection 5 and Admissibility certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as prima facie proof of the original book, paper or document and its contents.
- (7) The Minister or Director may appoint any expert Appointment to examine books, papers, documents or things examined under clause a of subsection 2 or under subsection 4.
- 25b.—(1) Every person employed in the administration of Matters confidential this Act, including any person making an inquiry, inspection or an investigation under section 22, 23, 24, 25 or 25a shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,
 - (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

1968-69, c. 136, s. 26, amended

(5) Section 26 of *The Used Car Dealers Act, 1968-69* is amended by striking out "25" in the second line and inserting in lieu thereof "25a".

1968-69, c. 136, s. 27, subs. 1, re-enacted

(6) Subsection 1 of section 27 of *The Used Car Dealers Act*, 1968-69 is repealed and the following substituted therefor:

Order to refrain from dealing with assets

- (1) Where,
 - (a) an investigation of any person has been ordered under section 25a; or
 - (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause a or b may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause a or b to hold such assets or trust funds or direct the person referred to in clause a or b to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the Bankruptcy Act (Canada), The Judicature Act, The Corporations Act, The Business Corporations Act, 1970, or the Winding-up Act (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust

R.S.O. 1960, cc. 197, 71, 1970, c. 25,

R.S.C. 1952, cc. 14, 296 funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

- (7) The said section 27 is amended by adding thereto the 1968-69, following subsection:
 - (5) Any person referred to in clause a or b of subsection Cancellation of direction 1 in respect of whom a direction has been given by or the Director under subsection 1 or any person registration having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.
- (8) Section 30 of *The Used Car Dealers Act*, 1968-69 is ^{1968-69,} c. 136, s. 30, repealed and the following substituted therefor:
 - 30. Where the Registrar believes on reasonable and False advertising probable grounds that a used car dealer is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies mutatis mutandis to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final.
- (9) Subsection 2 of section 31 of *The Used Car Dealers Act*, ¹⁹⁶⁸⁻⁶⁹, c. 136, s. 31, 1968-69 is repealed and the following substituted therefor: subs. 2, re-enacted
 - (2) Where service is made by registered mail the service when service shall be deemed to be made on the third day after deemed to the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

1968-69, c. 136, s. 34, cl. d, amended (10) Clause d of section 34 of The Used Car Dealers Act, 1968-69 is amended by striking out "or to any such person, document or material" in the second and third lines.

1966, c. 159, s. 7, subs. 1, cl. *b*, re-enacted

- **86.**—(1) Clause b of subsection 1 of section 7 of The Vocational Rehabilitation Services Act, 1966 is repealed and the following substituted therefor:
 - (b) receive applications for vocational rehabilitation services and shall exercise such powers and perform such duties in relation thereto and in relation to such services provided under this Act as are conferred or imposed on him by this Act and the regulations.

1966, c. 159, s. 7, amended (2) The said section 7 is amended by adding thereto the following subsections:

Delegation of powers of Director (3) The Director, with the consent in writing of the Deputy Minister of Social and Family Services, may authorize any employee or class of employee of the Vocational Rehabilitation Services Branch of the Department of Social and Family Services to exercise and discharge any of the powers conferred or the duties imposed upon him under this Act.

Decision of person exercising power of Director (4) Any decision, order or directive made or given by a person exercising powers and performing duties of the Director under subsection 2 or 3 shall be deemed to be a decision, order or directive of the Director for the purposes of this Act.

1966, c. 159, amended (3) The Vocational Rehabilitation Services Act, 1966 is amended by adding thereto the following sections:

Eligibility of applicant

7a. The Director shall determine the eligibility of each applicant to receive vocational rehabilitation services and, where the applicant is eligible, determine the amount or nature of the services in accordance with this Act and the regulations and direct provision thereof accordingly.

Suspension, etc., of services

- 7b. The Director may suspend or cancel vocational rehabilitation services being provided for a disabled person where the disabled person,
 - (a) ceases to be eligible for vocational rehabilitation services under this Act or the regulations;
 - (b) fails to avail himself of vocational rehabilitation services authorized for him;

- (c) is not benefiting from the vocational rehabilitation services being provided for him;
- (d) is not making satisfactory progress towards rehabilitation;
- (e) fails to provide to the Director or his representative, including a field worker, the information required to determine initial or continuing eligibility to vocational rehabilitation services; or
- (f) fails to comply with any provision of this Act and the regulations.
- (4) Section 8 of *The Vocational Rehabilitation Services Act*, ^{1966, c. 159,} 1966, as re-enacted by section 1 of *The Vocational Rehabilita* ^{(1968, c. 141,} ^{s. 1),} tion *Services Amendment Act*, 1968, is repealed and the re-enacted following substituted therefor:
 - 8. Sections 10c, 11a, 11b, 11c and 11e of The Family Application Benefits Act, 1966, apply, mutatis mutandis, to refusal of an application for, or the reduction, suspension or cancellation of vocational rehabilitation services by the Director, to requests for hearings by, and to hearings, proceedings and powers of the board of review established under that Act and to appeals therefrom to the Supreme Court, as if vocational rehabilitation services were benefits under that Act.
- (5) The Vocational Rehabilitation Services Act, 1966 is amended amended by adding thereto the following section:
 - 8a. Notwithstanding any decision of the Director, the Further application board or the Supreme Court, a further applica-for services tion for vocational rehabilitation services may be made by an applicant upon new or other evidence or where material circumstances have changed.
- (6) Clause m of section 9 of The Vocational Rehabilitation 1966, c. 159, Services Act, 1966 is repealed.
- **87.**—(1) Section 1 of *The Weed Control Act*, as amended R.S.O. 1960, by section 1 of *The Weed Control Amendment Act*, 1966, is amended further amended by relettering clause *a* as clause *aa* and by adding thereto the following clauses:
 - (a) "Board" means the Seed-Cleaning Licence Review Board established by this Act;

- (ba) "Director" means the Director appointed under this Act;
- (da) "licence" means a licence to operate a seed-cleaning plant;

(ja) "seed-cleaning plant" means a plant for the cleaning of grains or seeds for seed purposes.

R.S.O. 1960, c. 427, s. 2, re-enacted (2) Section 2 of *The Weed Control Act* is repealed and the following substituted therefor:

Director, inspectors chief and district 2. The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act, a chief inspector and a district weed inspector for any district designated in his appointment.

R.S.O. 1960, c. 427, s. 10, subs. 6, re-enacted (3) Subsection 6 of section 10 of *The Weed Control Act* is repealed and the following substituted therefor:

Disposition of appeal

(6) The chief inspector may, after hearing an appeal under this section, confirm or revoke the order appealed from or may make a new order in place of such order, which shall be served in accordance with subsections 3 and 4.

Parties

(7) The appellant, the inspector who issued the order and such other persons as the chief inspector may specify are parties to proceedings before the chief inspector under subsection 6.

How appeal

(8) An appeal under this section may be made in writing or orally or by telephone to the chief inspector but the chief inspector may require the grounds for appeal to be specified in writing before the hearing.

Examination of land

(9) The chief inspector may, in the presence of the parties or after affording them an opportunity to be present, view and examine land in relation to which an order appealed from under this section is made and may give his decision upon the evidence adduced by the parties and on such view and examination.

R.S.O. 1960, c. 427, s. 18, re-enacted (3) Section 18 of *The Weed Control Act* is repealed and the following substituted therefor:

- 18. No person shall operate a seed-cleaning plant without Seed-cleaning plant licence a licence therefor from the Director.
- 18a.—(1) The Director shall issue a licence to a person Licence, who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,
 - (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to operate a seed-cleaning plant;
 - (b) the applicant does not possess or will not have available all premises, facilities and equipment necessary to engage in the business of operating a seed-cleaning plant in accordance with this Act and the regulations; or
 - (c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.
 - (2) Subject to section 18b, the Director shall renew a Renewal licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee.
 - (3) No fee is payable for a licence or any renewal Fee, thereof for a seed-cleaning plant that is used only for cleaning the grain or seed of the owner of the plant.
- 18b—(1) The Director may refuse to renew or may Refusal to suspend or revoke a licence if, after a hearing, he suspension or cancellation is of opinion that,
 - (a) the premises, facilities and equipment used in the business of operating the seed-cleaning plant pursuant to the licence do not comply with this Act and the regulations;
 - (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction in connection with his business of operating the seed-cleaning plant to contravene any provision of this Act or the regulations or of

any other Act or the regulations thereunder or of any law applying to the carrying on of the business of operating a seed-cleaning plant or any condition of the licence and such contravention warrants such refusal to renew, suspension or revocation of the licence; or

(c) any other ground for refusal to renew, suspension or revocation specified in the regulation exists.

Provisional suspension,

(2) Notwithstanding subsection 1, the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or the public and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.

Continuation of licence pending renewal (3) Subject to subsection 2, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and has observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

Notice of hearing 18c.—(1) Notice of a hearing by the Director under section 18a or section 18b shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination of documentary evidence

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Variation of decision by Director 18d. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or

on the application of the person who was the applicant or licensee vary or rescind his decision but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

- 18e.—(1) A board to be known as the "Seed-Cleaning Review Licence Review Board" is hereby established and established shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure.
 - (2) A member of the Board shall hold office for not Term of more than five consecutive years.
 - (3) The Lieutenant Governor in Council may appoint Chairman one of the members of the Board as chairman and another of the members as vice-chairman.
 - (4) A majority of the members of the Board constitutes Quorum a quorum.
 - (5) The members of the Board shall receive such Remuneration remuneration and expenses as the Lieutenant Governor in Council may determine.
- 18f.—(1) Where the Director refuses to issue or renew or Appeal to suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.
- (2) The Board may extend the time for the giving of Extension of notice by an applicant or licensee under subsection 1 appeal either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.
- (3) Where an applicant or licensee appeals to the Powers of Board under this section, the Board shall hear appeal the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed,

suspended or revoked and may after the hearing confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper, and, for such purpose, the Board may substitute its opinion for that of the Director.

Effect of decision pending disposal of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of.

Parties

18g.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members making decision not to have taken part in investigation, (2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact (4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act.* 1971.

1971, c. . . .

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Only members at hearing to participate in decision

- 18h.—(1) Any party to the hearing before the Board may Appeal appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.
 - (2) The Minister is entitled to be heard, by counsel or Minister otherwise, upon the argument of an appeal under be heard this section.
 - (3) The chairman of the Board shall certify to the Record to Registrar of the Supreme Court the record of the in court proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.
 - (4) An appeal under this section may be made on any Powers of question that is not a question of fact alone and the appeal court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Director or the Board.
 - (5) Notwithstanding that an applicant or licensee has Effect of appealed under this section from a decision of the Board Board, unless the Board otherwise directs, the disposal of decision of the Board is effective until the appeal is disposed of.
- **88.**—(1) Subsections 3 and 4 of section 3 of *The Wild* R.S.O. 1960, *Rice Harvesting Act* are repealed and the following subsubses 3, 4, stituted therefor:
 - (3) The Minister shall control the issue of licences and Issue, etc., of licences may give directions relating thereto and to the cancellation thereof and may prescribe terms and conditions of licences.
 - (4) Subject to any directions given by the Minister, the Deputy Minister may Deputy Minister may issue, refuse to issue or cancel issue, etc. licences.
 - (5) Before refusing to issue a licence or cancelling a Hearing licence, the Deputy Minister shall cause an officer in the Department to hold a hearing to which the applicant or licensee shall be a party.

Report

(6) An officer holding a hearing under subsection 5 shall make a report to the Deputy Minister of his findings of fact and law at the hearing.

Application of 1971, c. ., ss. 6-16, 21-23

(7) Sections 6 to 16 and 21 to 23 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section.

Decision after hearing (8) After considering the report of an officer holding a hearing under this section, the Deputy Minister may issue, refuse to issue or cancel the licence to which the hearing related and shall give his reasons for his decision to the applicant or licensee.

Appeal

(9) An applicant or licensee who has been refused a licence or whose licence has been cancelled by the Deputy Minister may appeal to the Minister from the decision of the Deputy Minister and the Minister shall consider the report of the officer holding the hearing and of the Deputy Minister and may issue, refuse to issue or cancel the licence to which the appeal relates.

R.S.O. 1960, c. 431, s. 4, subs. 1, cl. a, re-enacted

- (2) Clause a of subsection 1 of section 4 of *The Wild Rice Harvesting Act* is repealed and the following substituted therefor:
 - (a) governing the issue, form, renewal or transfer of licences and prescribing fees therefor.

R.S.O. 1960, c. 431, s. 4, subs. 1, cl. *d*, repealed

(3) Clause d of subsection 1 of the said section 4 is repealed.

R.S.O. 1960, c. 434, s. 15, re-enacted **89.** Section 15 of *The Wolf and Bear Bounty Act* is repealed and the following substituted therefor:

Entitlement to claim 15. Where a claimant for a bounty under this Act so requests, the Minister shall refer any question as to whether the claimant is entitled to the bounty or as to the amount thereof to a provincial judge having jurisdiction in the area in which the claimant resides, and the provincial judge shall hear and determine the question and his decision shall be given effect to by the Minister or the appropriate officers under this Act.

- **90.**—(1) Subsections 2, 3, 4 and 5 of section 15 of $The^{1970, c. 33}$, Women's Equal Employment Opportunity Act, 1970 are repealed subss. 2-5, re-enacted and the following substituted therefor:
 - (2) A true copy of the complaint shall be annexed to the Copy of notice of the hearing that is given to any party except the Director.
 - (3) A member of the board hearing a complaint shall Members at not have taken part in any investigation or conto have taken part in sideration of the complaint prior to the hearing and investigation. shall not communicate directly or indirectly in etc relation to the complaint with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

- (4) The oral evidence taken before a board at a hearing Recording of evidence shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.
- (5) The findings of fact of the board pursuant to a Findings of fact hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of The Statutory Powers Procedure 1971. c. ... Act, 1971.
- (6) Subject to appeal under section 24, the board has Jurisdiction exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any person has contravened this Act or for the making of any order pursuant to such decision.
- (2) Sections 16, 17, 18, 19, 20 and 21 of The Women's 1970, c. 33, ss. 16-21, Equal Employment Opportunity Act, 1970 are repealed. repealed
- (3) Section 23 of The Women's Equal Employment Op-1970, c. 33, portunity Act, 1970 is repealed.
- (4) Section 24 of The Women's Equal Employment Op-1970, c. 33, portunity Act, 1970 is repealed and the following substituted re-enacted therefor:

Appeal from order of board

24.—(1) Any party to the hearing before a board may appeal from the decision or order of the board to the Supreme Court in accordance with the rules of court.

Records to be filed in court (2) Where notice of an appeal is served under this section, the board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made, which, together with a transcript of the oral evidence taken before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

Minister entitled to be heard (3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court

(4) An appeal under this section may be made on questions of law or fact or both and the court may affirm or reverse the decision or order of the board or direct the board to make any decision or order that the board is authorized to make under this Act and the court may substitute its opinion for that of the board.

1970, c. 33, ss. 25, 29, repealed (5) Sections 25 and 29 of *The Women's Equal Employment Opportunity Act, 1970* are repealed.

R.S.O. 1960, c. 435, s. 7, re-enacted; ss. 8, 9, repealed

91. Sections 7, 8 and 9 of *The Woodmen's Employment Act* are repealed and the following substituted therefor:

Powers of inspector in investigations

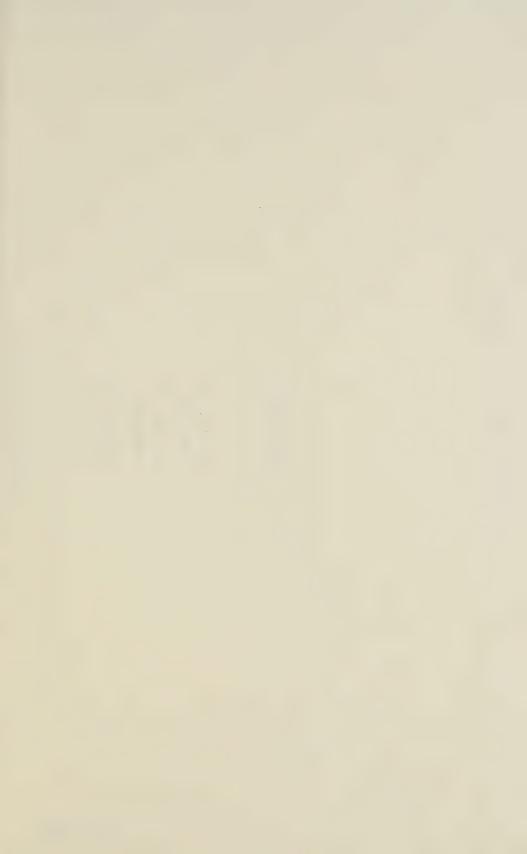
- 7. The inspector for the purpose of making an investigation under this Act may,
 - (a) upon production of his appointment as an inspector, enter at any reasonable time upon any land and premises upon which Crown timber is being cut and removed or which are used in connection with the cutting or removal of Crown timber and examine the interior of any room, tent, cabin, house or other place of accommodation provided for the living or working places of employees and of any kitchen, dining room, storeroom or other place used for the preparation, serving or storing of food provided to employees; and
 - (b) for purposes relevant to the subject-matter of the investigation, make inquiries from any person and require the production of and

examine documents, books and papers, including payrolls, price lists, diet sheets and shanty books, and for those purposes the inspector has the powers of a Commission under Part II of *The Public Inquiries Act, 1971*, which Part 1971, c. . . . applies to such inquiries as if it were an inquiry under that Act.

- **92.** Where an appeal is provided in this Act to the Appeals to Supreme Court, the appeal, until section 14a of The Court Judicature Act comes into force, shall be to the Court of Appeal. R.S.O. 1960, c. 197
- **93.** This Act comes into force on a day to be named by Commence-the Lieutenant Governor by his proclamation.
- 94. This Act may be cited as The Civil Rights Statute Law Short title Amendment Act, 1971.

And the second of the second of

en de la composition La composition de la



Ist Reading
June 4th, 1971
2nd Reading
June 24th, 1971
3rd Reading
July 13th, 1971

THE HON. W. G. DAVIS
Prime Minister







